

## **Exhibit A**

# Civil Cover Sheet

JURY FEE PAID

SEPTEMBER 2007

003275

PLAINTIFF'S NAME Robert Porter		DEFENDANT'S NAME SmithKline Beecham Corporation dba GlaxoSmithKline	
PLAINTIFF'S ADDRESS 2408 Somerset Drive Urbana, IL 61802		DEFENDANT'S ADDRESS One Franklin Plaza Philadelphia PA 19102-1225	
PLAINTIFF'S NAME Katherine Porter		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS 2408 Somerset Drive Urbana, IL 61802		DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME Robert T. Porter, A Minor		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS 2408 Somerset Drive Urbana, IL 61802		DEFENDANT'S ADDRESS	
TOTAL NO. OF PLAINTIFFS 3	TOTAL NO. OF DEFENDANTS 1	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Petition Action <input type="checkbox"/> Transfer from Other Jurisdiction <input type="checkbox"/> Notice of Appeal	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000 or less <input checked="" type="checkbox"/> More than \$50,000	COURT PROGRAMS <input type="checkbox"/> Arbitration <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Other: <input checked="" type="checkbox"/> Mass Tort <input type="checkbox"/> Savings Action <input type="checkbox"/> Petition <input type="checkbox"/> Settlement <input type="checkbox"/> Commerce <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeal <input type="checkbox"/> Minors		
CASE TYPE AND CODE (SEE INSTRUCTIONS) TK Paxil Pregnancy Case			
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS) None			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER: YES NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER/APPELLANT'S ATTORNEY Mark S. Karpo		ADDRESS (SEE INSTRUCTIONS) 137 N. 9 <sup>th</sup> Street Philadelphia, PA 19107-2410	
PHONE NUMBER (215) 923-6364	FAX NUMBER (215) 923-6341		
SUPREME COURT IDENTIFICATION NO.70531		E-MAIL ADDRESS mark@karpolaw.com	
SIGNATURE <i>Mark Karpo</i>		DATE 9/25/07	

Porter Etal Vs Smithklinebeecham Corp-WRSUM



07090327500003

JURY FEE PAID

Mark S Karpo, Esquire  
137 N. 9<sup>th</sup> Street  
Philadelphia, PA 19107  
Identification No. 70531  
Tel.: 215 923-6364

Attorney for Plaintiffs

Robert Porter and Katherine Porter,  
Individually and as Parents and Natural  
Guardians of Robert T. "Bo" Porter, A  
Minor

Plaintiffs

v.

SmithKlineBeecham Coporation d/b/a  
GlaxoSmithKline, Inc.  
One Franklin Plaza  
Philadelphia, PA 19102

Defendant

: Court of Common Pleas  
: Philadelphia County  
: Pennsylvania

Term: **SEPTEMBER 2007**

No.:

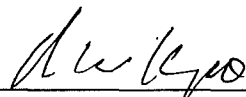
**003275**

**PRAECIPE TO ISSUE WRIT OF SUMMONS**

To the Prothonotary:

Kindly issue a writ of summons in the above captioned matter.

Date: 9/25/07

  
Mark S Karpo, Esquire  
Attorney for Plaintiffs

**JURY FEE PAID**

Mark S Karpo, Esquire  
137 N. 9<sup>th</sup> Street  
Philadelphia, PA 19107  
Identification No. 70531  
Tel.: 215 923-6364

Attorney for Plaintiffs

Robert Porter and Katherine Porter,  
Individually and as Parents and Natural  
Guardians of Robert T. "Bo" Porter, A  
Minor

Plaintiffs

v.

SmithKlineBeecham Coporation d/b/a  
GlaxoSmithKline, Inc.  
One Franklin Plaza  
Philadelphia, PA 19102

Defendant

: Court of Common Pleas  
: Philadelphia County  
: Pennsylvania

: Term:

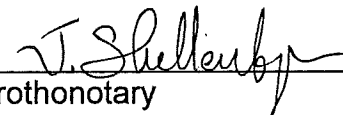
: No.: **SEPTEMBER 2007**

**003275**

**WRIT OF SUMMONS**

To: SmithKlineBeecham Coporation d/b/a  
GlaxoSmithKline, Inc.  
One Franklin Plaza  
Philadelphia, PA 19102

You are hereby notified that the Plaintiffs have commenced an action against  
you.

  
Prothonotary

Date: 9-25-07

(Seal of the Court)

**LAVIN, O'NEIL, RICCI, CEDRONE & DISIPIO**

BY: Joseph E. O'Neil, Esquire / ID No. 29053

Mary Grace Maley, Esquire / ID No. 37610

Carolyn L. McCormack, Esquire / ID No. 87800

190 North Independence Mall West

Suite 500, 6<sup>th</sup> & Race Streets

Philadelphia, PA 19106

(215) 627-0303

Counsel for Defendant, SmithKline Beecham  
Corporation d/b/a GlaxoSmithKline

ROBERT PORTER and KATHERINE PORTER,	:	PHILADELPHIA COUNTY
Individually and as parents and natural guardians of	:	COURT OF COMMON PLEAS
ROBERT T. "BO" PORTER, a minor	:	
	:	SEPTEMBER TERM, 2007
v.	:	
	:	NO.: 003275
SMITHKLINE BEECHAM CORPORATION	:	
D/B/A GLAXOSMITHKLINE	:	PAXIL – PREGNANCY

**PRAECIPE TO FILE COMPLAINT**

TO THE PROTHONOTARY:

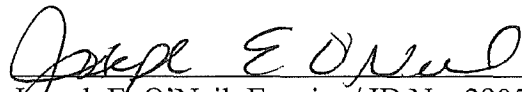
Please enter a Rule upon plaintiffs to file a Complaint within twenty (20) days hereof or  
suffer the entry of Judgment of Non Pros.

NOV 02 2007

**LAVIN, O'NEIL, RICCI, CEDRONE & DISIPIO**  
M. YOUNG

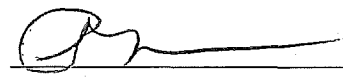
Date: 10/30/07

BY:

  
Joseph E. O'Neil, Esquire / ID No. 29053  
Mary Grace Maley, Esquire / ID No. 37610  
Carolyn L. McCormack, Esquire / ID No. 87800  
Counsel for Defendant, SmithKline Beecham Corporation  
d/b/a GlaxoSmithKline

**RULE TO FILE COMPLAINT**

AND NOW, this 30 day of OCT, 2007, a Rule is hereby granted upon plaintiffs to file  
a Complaint herein within twenty (20) days after service hereof or suffer the entry of a Judgment of Non Pros.

  
PROTHONOTARY

**CERTIFICATE OF SERVICE**

I, Carolyn L. McCormack, Esquire, hereby certify that a true and correct copy of the foregoing Praecipe and Rule to File Complaint of Lavin, O'Neil, Ricci, Cedrone & DiSipio, was filed with the Prothonotary of the Philadelphia Court of Common Pleas and mailed by U.S. mail, postage prepaid, this 30<sup>th</sup> day of October, 2007 to all counsel of record as noted below.

Mark S. Karpo, Esquire  
137 N. 9<sup>th</sup> Street  
Philadelphia, PA 19107  
*Counsel for Plaintiffs*

**LAVIN, O'NEIL, RICCI, CEDRONE & DISIPIO**

BY: 

Carolyn L. McCormack, Esquire  
Counsel for Defendant,  
SmithKline Beecham Corporation  
d/b/a GlaxoSmithKline

LAVIN, O'NEIL, RICCI, CEDRONE &amp; DISIPIO

BY: Joseph E. O'Neil, Esquire / ID No. 29053

Mary Grace Maley, Esquire / ID No. 37610

Carolyn L. McCormack, Esquire / ID No. 87800

190 North Independence Mall West  
Suite 500

6<sup>th</sup> & Race Streets

Philadelphia, PA 19106

(215) 627-0303

Counsel for Defendant, SmithKline Beecham  
Corporation d/b/a GlaxoSmithKline

ROBERT PORTER and KATHERINE PORTER,  
Individually and as parents and natural guardians of  
ROBERT T. "BO" PORTER, a minor

V.

SMITHKLINE BEECHAM CORPORATION  
D/B/A GLAXOSMITHKLINE

PHILADELPHIA COUNTY  
COURT OF COMMON PLEAS

SEPTEMBER TERM, 2007

NO.: 003275

## PAXIL – PREGNANCY

### ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter our appearance as counsel for defendant, SmithKline Beecham Corporation

d/b/a GlaxoSmithKline, in the above-captioned matter.

ne Beecham C

M. YOUNG

LAVIN, O'NEIL, RICCI, CEDRONE &amp; DISIPIO

Date: 10/30/07

BY: Wesley E. New

Joseph E. O'Neil, Esquire / ID No. 29053

Mary Grace Maley, Esquire / ID No. 37610

Carolyn L. McCormack, Esquire / ID No. 87800

Counsel for Defendant, SmithKline Beecham

Corporation d/b/a GlaxoSmithKline

11/30/07 TIME: 02:08  
 Defendant, Sm  
 167799  
 070903275  
 \$ 131.40  
 Register 2,282 CH  
 11/30/07  
 167799  
 070903275  
 \$ 131.40  
 Register 2,282 CH

**CERTIFICATE OF SERVICE**

I, Carolyn L. McCormack, Esquire, hereby certify that a true and correct copy of the foregoing Entry of Appearance of Lavin, O'Neil, Ricci, Cedrone & DiSipio, was filed with the Prothonotary of the Philadelphia Court of Common Pleas and mailed by U.S. mail, postage prepaid, this 30<sup>th</sup> day of October, 2007 to all counsel of record as noted below.

Mark S. Karpo, Esquire  
137 N. 9<sup>th</sup> Street  
Philadelphia, PA 19107  
*Counsel for Plaintiffs*

**LAVIN, O'NEIL, RICCI, CEDRONE & DISIPIO**

BY: 

Carolyn L. McCormack, Esquire  
Counsel for Defendant,  
SmithKline Beecham Corporation  
d/b/a GlaxoSmithKline



**MARK S. KARPO, P.C.**

ATTORNEY AT LAW

ANGEL LEUNG  
LEGAL ASSISTANT

137 NORTH NINTH STREET  
PHILADELPHIA, PENNSYLVANIA 19107

e-mail:  
mark@karpolaw.com

TEL.: (215) 923-6364

FAX: (215) 923-6341

November 14, 2007

Honorable Allan L. Tereshko  
City Hall Room 234  
Philadelphia, PA 19107

**114120**

**Re: Paxil Pregnancy Litigation – Unopposed Pro Hac Vice Motion**  
**Robert Porter, et al. v. SmithKline, Phila. C.C.C.P. No. 070903275**

Dear JudgeTereshko:

I represent the plaintiffs in this matter. Attached please find unopposed motion for pro hac vice admission of Michael E. Pierce, of Arnold & Itkin, 1401 McKinney Street, Houston, Texas 77010.

The IOLTA fee has been paid for this case as shown on the attached PA IOLTA Board letter.

Thank you for your consideration.

Very truly yours,

Mark S. Karpo, Esq.

2007 NOV 19 AM 10:02

FILED

178800  
11-16-07  
38.80  
GM



SUPREME COURT OF PENNSYLVANIA  
PENNSYLVANIA INTEREST ON  
LAWYERS TRUST ACCOUNT BOARD

P. O. BOX 1025 • 115 STATE STREET  
HARRISBURG, PENNSYLVANIA 17108-1025  
717/238-2001 • 888-PA-IOLTA (724-6582) • 717/238-2003 FAX  
paiolta@pacourts.us  
www.paiolta.org

*Chair*

MAUREEN P. KELLY, Esquire  
Two Gateway Center  
603 Stanwix Street, Suite 8W  
Pittsburgh, PA 15222-5412

*Vice-Chair*

KENNETH M. JARIN, Esquire  
Philadelphia, PA

*Board Members*

WILLIAM P. CARLUCCI, Esquire  
Williamsport, PA

HUBERT X. GILROY, Esquire  
Carlisle, PA

LEWIS F. GOULD, JR., Esquire  
Philadelphia, PA

WILLIAM T. HANGLEY, Esquire  
Philadelphia, PA

PENINA KESSLER LIEBER, Esquire  
Pittsburgh, PA

M. MARK MENDEL, Esquire  
Philadelphia, PA

MICHAEL H. REED, Esquire  
Philadelphia, PA

*Executive Director*  
ALFRED J. AZEN

October 29, 2007

Sent by fax: (713) 222-3850

Michael E. Pierce, Esquire  
ARNOLD ITKIN LLP  
1401 McKinney Street  
Suite 2550  
Houston, TX 77010

Dear Attorney Pierce:

This letter serves as the fee payment certification referenced in 204 Pa Code §81.503 and acknowledges receipt of the \$100 fee paid by Check, number 11064, on this date related to your pursuit for admission pro hac vice in the case identified as Robert and Katherine Porter, et al v. SmithKlineBeecham Corp d/b/a GlaxoSmithKline, Inc., case no. 003275, filed in the Court of Common Pleas of Philadelphia County.

You should refer to Pa Rule of Civil Procedure 1012.1, local court rules, and other regulations of 204 Pa Code §81.501 et. seq. concerning additional requirements related to seeking pro hac vice admission.

Sincerely,

Alfred J. Azen  
Executive Director

cc: Mark Karpo  
(215) 923-6341

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Robert Porter and Katherine Porter, Individually and as Parents and Natural Guardians of Robert T. Porter, A Minor	:	Court of Common Pleas Philadelphia County Pennsylvania
Plaintiffs	:	
v.	:	September Term, 2007
	:	No.: 03275
SMITHKLINE BEECHAM CORPORATION, d/b/a GLAXOSMITHKLINE One Franklin Plaza Philadelphia, PA 19102	:	In Re: Paxil Pregnancy
Defendant	:	Jury Trial Demanded

114120

ORDER

AND NOW, this 26 day of November, 2007, it is hereby  
**ORDERED** that Plaintiff's Unopposed Motion for Pro Hac Vice Admission is  
**GRANTED** and Michael E. Pierce, Esquire, of Arnold & Itkin, 1401 McKinney Street,  
Houston, Texas 77010, is hereby admitted Pro Hac Vice for purposes of this matter. Pro  
Hac Vice counsel shall forthwith obtain the appropriate City of Philadelphia Business  
Privilege License pursuant to 19-2602 of the Philadelphia Code, and shall pay all City  
business and Wage tax as required.

COPIES SENT  
PURSUANT TO Pa.R.C.P. 236(b)  
NOV 28 2007  
FIRST JUDICIAL DISTRICT OF PA  
N. SWEENEY

RECEIVED  
COMPLEX LITIGATION CENTER  
NOV 2 2007  
N. SWEENEY

BY THE COURT:

*Allan L. Tereshko*

ALLAN L. TERESHKO, J.  
COORDINATING JUDGE  
COMPLEX LITIGATION CENTER

**Mark S. Karpo**  
 State Bar No.: 70531  
**Mark S. Karpo, P.C.**  
 137 N. 9th St.  
 Philadelphia, PA 19107-2410  
 (215) 923-6364  
 (215) 923-6341

*Attorney for Plaintiffs*

<b>Robert Porter and Katherine Porter,</b>	)	<b>COURT OF COMMON PLEAS</b>
<b>Individually and as Parents and Natural</b>	)	<b>TRIAL DIVISION</b>
<b>Guardians of Robert T. "Bo" Porter, A</b>	)	<b>PHILADELPHIA COUNTY</b>
<b>Minor</b>	)	
<b>2408 Somerset Drive</b>	)	
<b>Urbana, IL 61802</b>	)	<b>September Term 2007</b>
<b>Plaintiffs,</b>	)	<b>NO.: 003275</b>
<b>vs.</b>	)	<b>IN RE: PAXIL-PREGNANCY</b>
<b>SmithKline Beecham Corporation d/b/a,</b>	)	
<b>GlaxoSmithKline,</b>	)	<b>JURY TRIAL DEMANDED</b>
<b>Defendant.</b>	)	

---

**PLAINTIFFS' UNOPPOSED MOTION FOR ADMISSION**  
**PRO HAC VICE OF MICHAEL E. PIERCE**

*Plaintiffs* by and through their counsel, Mark S. Karpo of the law firm of Mark S. Karpo, P.C., bring this Unopposed Motion for Admission *Pro Hac Vice* and in support thereof avers as follows:

1. The Movant is Mark S. Karpo a duly admitted member in good standing in support avers as follows:
  
2. Pursuant to Rule 301 of the Pennsylvania Bar Admission Rules, the Movant requests the Pro Hac Vice admission of **Michael E. Pierce** of the law firm **ARNOLD & ITKIN**

**LLP**, 1401 McKinney Street, Suite 2550, Houston, Texas 77010, to act as counsel for Plaintiffs in the above-captioned matter only.

3. The Movant avers that Michael E. Pierce is a member in good standing of the Bar of the State of Texas. In support, see the Affidavit of Michael E. Pierce which is attached.

4. Michael E. Pierce specializes in cases involving personal injury such as the instant case and has more than four (4) years experience as a civil trial attorney.

5. Michael E. Pierce was hired by Plaintiffs to represent them in this claim and Plaintiffs wish Michael E. Pierce to continue representing them as counsel.

6. Michael E. Pierce is familiar with the subject matter of this litigation and his appearance on behalf of the Plaintiffs is in the interest of justice and has been assisting counsel in the matter.

7. The Movant will continue to represent Plaintiffs as counsel of record and maintains a local office in Philadelphia, Pennsylvania, and has represented numerous plaintiffs in the Court of Common Pleas of Philadelphia County.

8. Rule of Admission 301 provides that a motion to practice *Pro Hac Vice* shall be granted unless good cause for denial shall appear.

Plaintiffs respectfully request that this Honorable Court grant their Unopposed Motion for Admission *Pro Hac Vice* of Michael E. Pierce of the law firm ARNOLD & ITKIN LLP, to act as counsel in the above-captioned matter only on their behalf.

**MARK S. KARPO P.C.**

By:   
Mark S. Karpo

**Mark S. Karpo**

State Bar No.: 70531

**Mark S. Karpo, P.C.**

137 N. 9th St.

Philadelphia, PA 19107-2410

(215) 923-6364

(215) 923-6341

*Attorney for Plaintiffs*

<b>Robert Porter and Katherine Porter,</b>	)	<b>COURT OF COMMON PLEAS</b>
<b>Individually and as Parents and Natural</b>	)	<b>TRIAL DIVISION</b>
<b>Guardians of Robert T. "Bo" Porter, A</b>	)	<b>PHILADELPHIA COUNTY</b>
<b>Minor</b>	)	
<b>2408 Somerset Drive</b>	)	<b>September 2007 Term</b>
<b>Urbana, IL 61802</b>	)	
<b>Plaintiffs,</b>	)	<b>NO.: 003275</b>
	)	
<b>vs.</b>	)	<b>IN RE: PAXIL</b>
	)	
<b>SmithKline Beecham Corporation d/b/a,</b>	)	
<b>GlaxoSmithKline,</b>	)	<b><u>JURY TRIAL DEMANDED</u></b>
	)	
<b>Defendant.</b>	)	

**AFFIDAVIT OF MICHAEL E. PIERCE**

Michael E. Pierce, of full age, being duly sworn according to law upon his oath deposes and says:

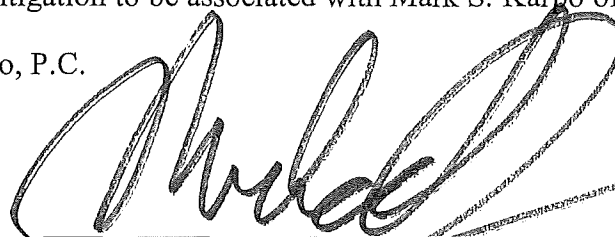
1. I am an attorney at law residing at 3718 Spring Court, Manvel, Texas 77578.
2. I am domiciled in Manvel, Brazoria County, Texas.
3. I am an attorney at law licensed to practice in the State of Texas. I am a member in good standing of the Bar of Texas and admitted to practice in Texas.
4. I am not currently, and never have been, suspended or disbarred in any court.
5. I have been requested by the Plaintiffs to represent them in this matter. I have worked on a number of similar personal injury cases previously, and because of my prior

experience in this type of litigation, especially involving personal injury, Plaintiffs have asked me to be lead counsel in regard to their case.

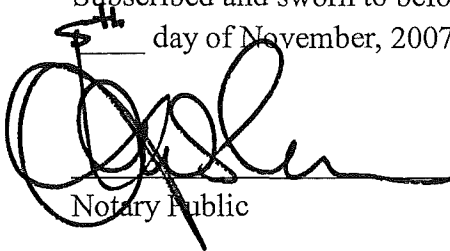
6. I will be associated in this matter with the law firm of Mark S. Karpo, P.C., located in Philadelphia, Pennsylvania.

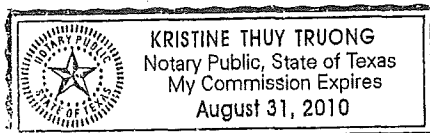
7. In the event that my application for admission pro hac vice in this case is granted, I agree without limitation, that I shall:

- a. Comply with and meet the requirement of Pennsylvania Rules of Professional Conduct;
- b. Advise the Court immediately should I cease to be an attorney in good standing of the State of Texas and any other matter affecting my standing within the Bar of any other Court;
- c. Continue throughout this litigation to be associated with Mark S. Karpo of the law firm Mark S. Karpo, P.C.

  
Michael E. Pierce

Subscribed and sworn to before me this  
\_\_\_\_ day of November, 2007.

  
Notary Public



**ATTORNEY GOOD FAITH CERTIFICATION**

Mark S. Karpo, attorney for Plaintiffs in this matter, hereby states that the facts set forth in the foregoing Unopposed Motion for Admission *Pro Hac Vice* of Michael E. Pierce of the law firm Arnold & Itkin LLP, are true and correct to the best of his knowledge, information and belief. Counsel for Plaintiffs has contacted opposing counsel regarding the subject of the attached Motion for Admission *Pro Hac Vice*, and opposing counsel has agreed not to oppose the motion. This statement is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DATED: November 6, 2007



---

Mark S. Karpo




**CERTIFICATE OF SERVICE**

I, Mark S. Karpo, of the law firm Mark S. Karpo, P.C., hereby certify that a true and correct copy of the foregoing Unopposed Motion for Admission *Pro Hac Vice*, was filed with the Prothonotary of the Philadelphia Court of Commons Pleas and mailed by U.S. mail postage pre-paid, this 13 day of November, 2007, to all counsel of record as noted below.

Joseph E. O'Neil  
Mary Grace Maley  
Carolyn L. McCormack  
Lavin, O'Neil, Ricci, Cedrone & DiSipio  
137 N. 9th Street  
Philadelphia, PA 19107

*Counsel for Defendant SmithKline Beecham Corporation d/b/a  
GlaxoSmithKline*

**MARK S. KARPO**

By:   
\_\_\_\_\_  
Mark S. Karpo  
Attorney for Plaintiffs

**MARK S. KARPO, P.C.**

ATTORNEY AT LAW

ANGEL LEUNG  
LEGAL ASSISTANT

137 NORTH NINTH STREET  
PHILADELPHIA, PENNSYLVANIA 19107

e-mail:  
mark@karpolaw.com

TEL.: (215) 923-6364  
FAX: (215) 923-6341

November 14, 2007

Honorable Allan L. Tereshko  
City Hall Room 234  
Philadelphia, PA 19107

178844  
38.80  
11-16-07  
MW

**114149**

**Re: Paxil Pregnancy Litigation – Unopposed Pro Hac Vice Motion  
Robert Porter, et al. v. SmithKline, Phila. C.C.C.P. No. 070903275**

Dear JudgeTereshko:

I represent the plaintiffs in this matter. Attached please find unopposed motion for pro hac vice admission of Kurt B. Arnold, Esquire, of Arnold & Itkin, 1401 McKinney Street, Houston, Texas 77010.

The IOLTA fee has been paid for this case as shown on the attached PA IOLTA Board letter.

Thank you for your consideration.

Very truly yours,

Mark S. Karpo, Esq.

FILED  
2007 NOV 19 AM 10:13



SUPREME COURT OF PENNSYLVANIA  
PENNSYLVANIA INTEREST ON  
LAWYERS TRUST ACCOUNT BOARD

P. O. BOX 1025 • 115 STATE STREET  
HARRISBURG, PENNSYLVANIA 17108-1025  
717/238-2001 • 888-PA-IOLTA (724-6582) • 717/238-2003 FAX  
paiolta@pacourts.us  
www.paiolta.org

*Chair*

MAUREEN P. KELLY, Esquire  
Two Gateway Center  
603 Stanwix Street, Suite 8W  
Pittsburgh, PA 15222-5412

October 25, 2007

*Vice-Chair*

KENNETH M. JARIN, Esquire  
Philadelphia, PA

Sent by fax: (713) 222-3850

Kurt B. Arnold, Esquire  
ARNOLD ITKIN LLP  
1401 McKinney Street  
Suite 2550  
Houston, TX 77010

*Board Members*

WILLIAM P. CARLUCCI, Esquire  
Williamsport, PA

HUBERT X. GILROY, Esquire  
Carlisle, PA

Dear Attorney Arnold:

LEWIS F. GOULD, JR., Esquire  
Philadelphia, PA

WILLIAM T. HANGLEY, Esquire  
Philadelphia, PA

PENINA KESSLER LIEBER, Esquire  
Pittsburgh, PA

This letter serves as the fee payment certification referenced in 204 Pa Code §81.503 and acknowledges receipt of the \$100 fee paid by Check, number 11064, on this date related to your pursuit for admission pro hac vice in the case identified as Robert and Katherine Porter, et al v. SmithKlineBeecham Corp d/b/a GlaxoSmithKline, Inc., case no. 003275, filed in the Court of Common Pleas of Philadelphia County.

M. MARK MENDEL, Esquire  
Philadelphia, PA

You should refer to Pa Rule of Civil Procedure 1012.1, local court rules, and other regulations of 204 Pa Code §81.501 et. seq. concerning additional requirements related to seeking pro hac vice admission.

MICHAEL H. REED, Esquire  
Philadelphia, PA

Sincerely,

*Executive Director*  
ALFRED J. AZEN

  
Alfred J. Azen  
Executive Director

cc: Mark Karpo  
(215) 923-6341

G:\CL\DOC\PHV\ACK LTR\2007\October\10262007.wpd

Robert Porter and Katherine  
Porter, Individually and as Parents  
and Natural Guardians of Robert  
T. Porter, A Minor

Plaintiffs

v.

SMITHKLINE BEECHAM  
CORPORATION, d/b/a  
GLAXOSMITHKLINE  
One Franklin Plaza  
Philadelphia, PA 19102

Defendant

Court of Common Pleas  
Philadelphia County  
Pennsylvania

September Term, 2007

No.: 03275

In Re: Paxil Pregnancy

Jury Trial Demanded

114149

ORDER

AND NOW, this 26 day of November, 2007, it is hereby  
**ORDERED** that Plaintiff's Unopposed Motion for Pro Hac Vice Admission is  
**GRANTED** and Kurt B. Arnold, Esquire, of Arnold & Itkin, 1401 McKinney Street,  
Houston, Texas 77010, is hereby admitted Pro Hac Vice for purposes of this matter. Pro  
Hac Vice counsel shall forthwith obtain the appropriate City of Philadelphia Business  
Privilege License pursuant to 19-2602 of the Philadelphia Code, and shall pay all City  
business and Wage tax as required.

BY THE COURT:

*Allan L. Tereshko*

ALLAN L. TERESHKO, J.  
COORDINATING JUDGE  
COMPLEX LITIGATION CENTER

COPIES SENT  
PURSUANT TO Pa.R.C.P.236(b)

NOV 26 2007

FIRST JUDICIAL DISTRICT OF PA  
N. SWEENEY

RECORDED  
COMPLEX LIT CENTER

NOV 26 2007

N. SWEENEY

Mark S. Karpo  
State Bar No.: 70531  
**Mark S. Karpo, P.C.**  
137 N. 9th St.  
Philadelphia, PA 19107-2410  
(215) 923-6364  
(215) 923-6341

*Attorney for Plaintiffs*

**Robert Porter and Katherine Porter,  
Individually and as Parents and Natural  
Guardians of Robert T. "Bo" Porter, A  
Minor  
2408 Somerset Drive  
Urbana, IL 61802**

**Plaintiffs,**

VS.

**SmithKline Beecham Corporation d/b/a,  
GlaxoSmithKline,**

**Defendant.**

**COURT OF COMMON PLEAS  
TRIAL DIVISION  
PHILADELPHIA COUNTY**

September Term 2007

**NO.: 003275**

**IN RE: PAXIL-PREGNANCY**

## JURY TRIAL DEMAND

**PLAINTIFFS' UNOPPOSED MOTION FOR ADMISSION**  
***PRO HAC VICE OF KURT B. ARNOLD***

Plaintiffs by and through their counsel, Mark S. Karpo of the law firm of Mark S. Karpo, P.C., bring this Unopposed Motion for Vice Admission *Pro Hac Vice* and in support thereof avers as follows:

1. The Movant is Mark S. Karpo a duly admitted member in good standing in support thereof aver as follows:
2. Pursuant to Rule 301 of the Pennsylvania Bar Admission Rules, the Movant requests the Pro Hac Vice admission of **Kurt B. Arnold** of the law firm **ARNOLD & ITKIN LLP**, 1401 McKinney Street, Suite 2550, Houston, Texas 77010, to act as counsel for Plaintiffs in the above-captioned matter only.

3. The Movant avers that Kurt B. Arnold is a member in good standing of the Bar of the State of Texas. In support, see the Affidavit of Kurt B. Arnold which is attached.

4. Kurt B. Arnold specializes in cases involving personal injury such as the instant case and has more than five (5) years experience as a civil trial attorney.

5. Kurt B. Arnold was hired by Plaintiffs to represent them in this claim and Plaintiffs wish Kurt B. Arnold to continue representing them as counsel.

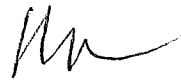
6. Kurt B. Arnold is familiar with the subject matter of this litigation and his appearance on behalf of the Plaintiffs is in the interest of justice and has been assisting counsel in the matter.

7. The Movant will continue to represent Plaintiffs as counsel of record and maintains a local office in Philadelphia, Pennsylvania, and has represented numerous plaintiffs in the Court of Common Pleas of Philadelphia County.

8. Rule of Admission 301 provides that a motion to practice Pro Hac Vice shall be granted unless good cause for denial shall appear.

Plaintiffs respectfully request that this Honorable Court grant their Unopposed Motion for Admission *Pro Hac Vice* of Kurt B. Arnold of the law firm ARNOLD & ITKIN LLP, to act as counsel in the above-captioned matter only, on their behalf.

**MARK S. KARPO P.C.**

By:   
Mark S. Karpo

**Mark S. Karp**  
 State Bar No.: 70531  
**Mark S. Karp, P.C.**  
 137 N. 9th St.  
 Philadelphia, PA 19107-2410  
 (215) 923-6364  
 (215) 923-6341

*Attorney for Plaintiffs*

<b>Robert Porter and Katherine Porter,</b>	)	<b>COURT OF COMMON PLEAS</b>
<b>Individually and as Parents and Natural</b>	)	<b>TRIAL DIVISION</b>
<b>Guardians of Robert T. "Bo" Porter, A</b>	)	<b>PHILADELPHIA COUNTY</b>
<b>Minor</b>	)	
<b>2408 Somerset Drive</b>	)	
<b>Urbana, IL 61802</b>	)	<b>September Term 2007</b>
<b>Plaintiffs,</b>	)	<b>NO.: 003275</b>
<b>vs.</b>	)	<b>IN RE: PAXIL-PREGNANCY</b>
<b>SmithKline Beecham Corporation d/b/a,</b>	)	
<b>GlaxoSmithKline,</b>	)	<b>JURY TRIAL DEMAND</b>
<b>Defendant.</b>	)	

**AFFIDAVIT OF KURT B. ARNOLD**

Kurt B. Arnold, of full age, being duly sworn according to law upon his oath deposes and says:

1. I am an attorney at law residing at 909 Texas Avenue, #519, Houston, Texas 77002.
2. I am domiciled in Houston, Harris County, Texas.
3. I am an attorney at law licensed to practice in the State of Texas. I am a member in good standing of the Bar of Texas and admitted to practice in Texas and the Fifth Circuit Court of Appeals.
4. I am not currently, and never have been, suspended or disbarred in any court.

5. I have been requested by the Plaintiffs to represent them in this matter. I have worked on a number of similar personal injury cases previously, and because of my prior experience in this type of litigation, especially involving personal injury, Plaintiffs have asked me to be lead counsel in regard to their case.

6. I will be associated in this matter with the law firm of Mark S. Karpo, P.C., located in Philadelphia, Pennsylvania.

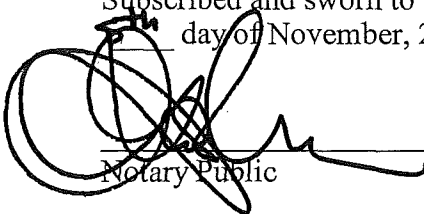
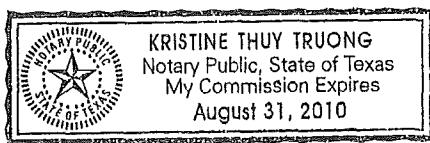
7. In the event that my application for admission pro hac vice in this case is granted, I agree without limitation, that I shall:

- a. Comply with and meet the requirement of Pennsylvania Rules of Professional Conduct;
- b. Advise the Court immediately should I cease to be an attorney in good standing of the State of Texas and any other matter affecting my standing within the Bar of any other Court;
- c. Continue throughout this litigation to be associated with Mark S. Karpo, of Mark S. Karpo, P.C.



Kurt B. Arnold

Subscribed and sworn to before me this  
day of November, 2007.


  
Notary Public



**ATTORNEY GOOD FAITH CERTIFICATION**

Mark S. Karpo, attorney for Plaintiffs in this matter, hereby states that the facts set forth in the foregoing Unopposed Motion for Admission *Pro Hac Vice* of Kurt B. Arnold of the law firm Arnold & Itkin LLP, are true and correct to the best of his knowledge, information and belief. Counsel for Plaintiffs has contacted opposing counsel regarding the subject of the attached Motion for Admission *Pro Hac Vice*, and opposing counsel has agreed not to oppose the motion. This statement is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DATED: November 6, 2007

---

Mark S. Karpo


**CERTIFICATE OF SERVICE**

I, Mark S. Karpo, of the law firm Mark S. Karpo, P.C., hereby certify that a true and correct copy of the foregoing Unopposed Motion for Admission *Pro Hac Vice*, was filed with the Prothonotary of the Philadelphia Court of Commons Pleas and mailed by U.S. mail postage pre-paid, this 13 day of November, 2007, to all counsel of record as noted below.

Joseph E. O'Neil  
Mary Grace Maley  
Carolyn L. McCormack  
Lavin, O'Neil, Ricci, Cedrone & DiSipio  
137 N. 9th Street  
Philadelphia, PA 19107

***Counsel for Defendant SmithKline Beecham Corporation d/b/a  
GlaxoSmithKline***

MARK S. KARPO

By:   
Mark S. Karpo  
Attorney for Plaintiffs

Robert Porter and Katherine  
Porter, Individually and as Parents  
and Natural Guardians of Robert  
T. Porter, A Minor

Plaintiff

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA

vs.

September Term, 2007

SmithKline Beecham Corporation  
dba GlaxoSmithKline

No. 003275

Defendant

**AFFIDAVIT OF SERVICE**

**Service: I served SmithKline Beecham Corporation, dba GlaxoSmithKline  
with the Writ of Summons, as follows:**

**At place of business: 200 North 16<sup>th</sup> St , Philadelphia, PA 19102**

**On 10/15/2007, at 9:00am**

- (1)        Defendant(s) personally served.  
(2) XXX Agent or person in charge Defendant(s) office or usual place of business.  
Agent: Debra Hinton

I declare under penalty of perjury that the information contained herein is true and correct  
and this affidavit was executed on October 24, 2007, at Philadelphia, PA

  
SIGNATURE OF PROCESS SERVER

Steven Karp

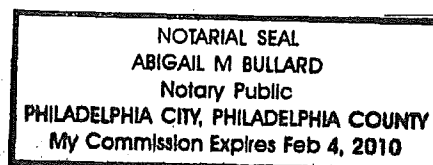
FILED  
PRO PROTHY

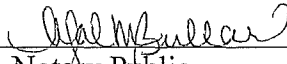
Subscribed and sworn before me, a notary public, this 24th day of October, 2007

NOV 20 2007

E. HUSTON

WITNESS MY HAND AND OFFICIAL SEAL TO



  
Notary Public

SC0026

SC0027

ingesting the prescription medication Paxil, Paxil OS or Paxil CR ("Paxil") during her pregnancy (hereinafter "Paxil Pregnancy Cases"). Plaintiffs select and indicate the causes of action raised in their case by checking off the appropriate spaces corresponding to the causes listed herein. In the event that a cause not listed herein is being raised, or where a claim requires, pursuant to Pennsylvania law, specific pleading or case-specific facts, Plaintiff(s) shall add and include said cause or said pleading or facts by way of submitting a Supplemental Short Form Complaint as approved by the Court's Case Management Order.

1. Robert T. Porter, child, a minor, by Katherine Porter and/or Robert Porter, Parents and Guardians, against GlaxoSmithKline "GSK."

2. A. Minor Plaintiff / Decedent

Name:

Robert T. Porter

Place of Birth:

Peoria, IL

State of Residence:

IL

Date of Birth:

03/02/2006

Date of Death:

N/A

B. Guardian for Minor Plaintiff:

Name:

Katherine Porter and Robert Porter

State of Residence:

IL

Relationship to Minor Plaintiff:

Mother and Father

C. Mother of Minor Plaintiff, Individually:

Name:

Katherine Porter

State of Residence:

IL

D. Father of Minor Plaintiff, Individually:

Name:

Robert Porter

State of Residence:

IL

E. Wrongful Death Beneficiaries and/or Personal Representative of Estate of:

N/A

Name:

N/A

State of Residence:

N/A

Name:

N/A

State of Residence:

N/A

3. Robert T. Porter's mother ingested the following drugs relevant to this action for the described period:

Paxil Oral Suspension \_\_\_\_\_

Dose (if known): 25 mg

4. The prescribing physician was:

Dr. Sunny Lee, M.D.

5. Robert T. Porter was born with or developed the following condition:

Congenital Heart Defect; Congenital Birth Defect, PPHN

6. Katherine Porter and Robert Porter, individuals residing in the state noted above and claim damages as a result of Robert T. Porter's mother's ingestion of Paxil during her pregnancy.

7. The following claims are asserted herein:

<u>X</u>	Count One:	Breach of Express Warranty
<u>X</u>	Count Two:	Breach of Implied Warranty
<u>X</u>	Count Three:	Fraud
<u>X</u>	Count Four:	Intentional Infliction of Emotional Distress
<u>X</u>	Count Five:	Loss of Consortium
<u>X</u>	Count Six:	Negligence
<u>X</u>	Count Seven:	Negligence Per Se
<u>X</u>	Count Eight:	Negligent Pharmacovigilance
<u>X</u>	Count Nine:	Failure to Warn
<u>X</u>	Count Ten:	Negligent Misrepresentation
<u>X</u>	Count Eleven:	Punitive Damages
<u>X</u>	Count Twelve:	Strict Products Liability
<u>N/A</u>	Count Thirteen:	Survival/Survivorship Action
<u>X</u>	Count Fourteen:	Violation of Consumer Act
<u>N/A</u>	Count Fifteen:	Wrongful Death

<u>X</u>	Count Sixteen:	Loss of Income
<u>X</u>	Count Seventeen:	Medical Expenses
X	Count Eighteen:	Design Defect

DATED: November 15, 2007

Respectfully Submitted,



---

**Mark S. Karpo**  
State Bar No.: 70531  
**Mark S. Karpo, P.C.**  
137 N. 9th St.  
Philadelphia, PA 19107-2410  
(215) 923-6364  
(215) 923-6341

**Arnold & Itkin LLP**  
**Kurt B. Arnold**  
Texas State Bar No.: 24032461  
*Pro Hac Vice Pending*  
**Michael E. Pierce**  
Texas State Bar No.: 24039117  
*Pro Hac Vice Pending*  
1401 McKinney St., Suite 2550  
Houston, TX 77010  
(713)222-3800  
(713)222-3850 - Fax

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Mark S. Karpo, of the law firm Mark S. Karpo, P.C., hereby certify that a true and correct copy of the foregoing Short Form Complaint, was filed with the Prothonotary of the Philadelphia Court of Commons Pleas and mailed by U.S. mail postage pre-paid, this 19 day of November, 2007, to all counsel of record as noted below.

**Lavin, O'Neil, Ricci, Cedrone & DiSipio**  
Joseph E. O'Neil  
Mary Grace Maley



Carolyn L. McCormack  
137 N. 9th Street  
Philadelphia, PA 19107

***Counsel for Defendant SmithKline Beecham Corporation d/b/a  
GlaxoSmithKline***

MARK S. KARPO

By:   
\_\_\_\_\_  
Mark S. Karpo  
***Attorney for Plaintiffs***

**VERIFICATION**

I, Robert Porter, hereby state that I am a plaintiff in the within action, and the parent and guardian of Robert, who is also a plaintiff in the within action. I hereby state the facts set forth in the foregoing Plaintiffs' Complaint are true and correct to the best of my knowledge, information and belief. I understand that this Verification is being made subject to 18Pa. C.S. § 4904 related to unsworn falsification to authorities.

DATE: September 28, 2007

SIGNATURE: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'R. Porter', is written over a horizontal line.

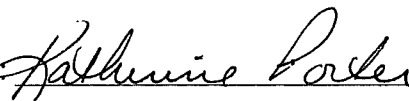
PRINT NAME: Robert Porter

**VERIFICATION**

I, Katherine Porter, hereby state that I am a plaintiff in the within action, and the parent and guardian of Robert, who is also a plaintiff in the within action. I hereby state the facts set forth in the foregoing Plaintiffs' Complaint are true and correct to the best of my knowledge, information and belief. I understand that this Verification is being made subject to 18Pa. C.S. § 4904 related to unsworn falsification to authorities.

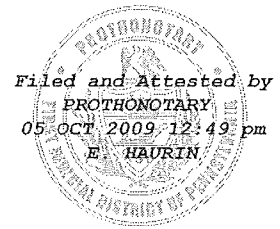
DATE: September 28, 2007

SIGNATURE

\_\_\_\_\_

PRINT NAME:

Katherine Porter



FELDMAN & PINTO, P.C.  
BY: Rosemary Pinto, Esquire.  
Identification Number: 53114  
1604 Locust Street, 2R  
Philadelphia, PA 19103  
(215) 546-2604  
email address: [Rpinto@feldmanpinto.com](mailto:Rpinto@feldmanpinto.com)

Attorney for Plaintiff(s)

ROBERT T. PORTER, et al	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
	:	
vs.	:	September Term, 2007
	:	
SMITHKLINE BEECHAM CORPORATION	:	NO: 03275
d/b/a GLAXOSMITHKLINE	:	

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiffs, Robert T. Porter, et al. in the above captioned matter.

FELDMAN & PINTO

BY: /s/ Rosemary Pinto  
Rosemary Pinto  
Attorney for Plaintiff(s)

Case ID: 070903275

SC0035

**CERTIFICATE OF SERVICE**

I hereby certify that the below listed counsel for the respective parties are listed to receive the below-described documents by the electronic filing system per the Philadelphia Court of Common Pleas. To the extent there are parties not listed to receive electronic filings they will be served consistent with P.A.R.C.P. 440.

DATE: October 5, 2009

DOCUMENT: ENTRY OF APPEARANCE

PERSONS: Joseph E. O'Neil, Esquire  
Carolyn L. McCormack, Esquire  
Mary Grace Malley, Esquire  
Mark S. Karpo, Esquire

FELDMAN & PINTO

BY: /s/ Rosemary Pinto  
Rosemary Pinto

# PHILADELPHIA COURT OF COMMON PLEAS PETITION/MOTION COVER SHEET

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE:
Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at <a href="http://courts.phila.gov">http://courts.phila.gov</a>	

## CONTROL NUMBER:

10021372

(RESPONDING PARTIES MUST INCLUDE THIS  
NUMBER ON ALL FILINGS)

September Term, 2007  
Month Year  
No. 03275

PORTER ETAL VS SMITHKLINEBEECHAM CORP

Name of Filing Party:

KATHERINE PORTER-PLF  
KATHERINE PORTER-PNGD  
ROBERT PORTER-PLF

## INDICATE NATURE OF DOCUMENT FILED:

☐ Petition (Attach Rule to Show Cause) ☒ Motion  
☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☐ Yes ☐ NoIs another petition/motion pending? ☐ Yes ☐ No

If the answer to either question is yes, you must identify the judge(s):  
JUDGE MOSS

TYPE OF PETITION/MOTION (see list on reverse side)		PETITION/MOTION CODE (see list on reverse side)
MOT-FOR ADMISSION PRO HAC VICE		MTPHV
ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding):		
<b>I. CASE PROGRAM</b>  OTHER PROGRAM  Court Type: <u>MASS TORT</u> Case Type: <u>MASS TORT - PAXIL-BIRTH DEFECT</u>		<b>II. PARTIES (required for proof of service)</b> (Name, address and <b>telephone number</b> of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)  MARK S KARPO 137 N. 9TH ST. , PHILADELPHIA PA 19107  JOSEPH E ONEIL 190 N. INDEPENDENCE MALL WEST 6TH & RACE STREETS SUITE 500 , PHILADELPHIA PA 19106  MARY GRACE MALEY 190 N. INDEPENDENCE MALL WEST 6TH & RACE STREETS SUITE 500 , PHILADELPHIA PA 19106  CAROLYN L. McCORMACK 190 N. INDEPENDENCE MALL WEST 6TH & RACE STREETS SUITE 500 , PHILADELPHIA PA 19106  KURT B. ARNOLD 1401 MCKINNEY STREET , HOUSTON TX 77010
<b>III. OTHER</b>		

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see P.A. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

February 8, 2010

ROSEMARY PINTO

(Attorney Signature/Unrepresented Party)

(Date)

(Print Name)

(Attorney I.D. No.)

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.  
No extension of the Answer/Response Date will be granted even if the parties so stipulate.

30-1061B E-File# 1002013293

09-FEB-10 15:22:18

SC0037

ROBERT PORTER-PNGD  
ROBERT T PORTER-PMNR

MICHAEL E. PIERCE  
1401 MCKINNEY STREET , HOUSTON TX  
77010

**FILED**

08 FEB 2010 03:46 pm

**Civil Administration**

A. LEBRON

Rosemary Pinto, Esq.  
PA Bar #53114 [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)  
**FELDMAN & PINTO**  
1604 Locust Street, 2<sup>nd</sup> Floor  
Philadelphia, PA 19103  
Tel: 215-546-2604  
Fax: 215-546-9904

**ARNOLD & ITKIN LLP**  
**Kurt B. Arnold**  
Texas State Bar No.: 24032461  
**Michael E. Pierce**  
Texas State Bar No.: 24039117  
**Alexander G. Dwyer**  
Texas State Bar No.: 24054271  
1401 McKinney St., Suite 2550  
Houston, Texas 77010  
Tel: 713-222-3800  
Fax: 713-222-3850  
*Attorneys for Plaintiffs*

**ROBERT AND KATHERINE PORTER,**  
Individually and as Parents and Natural  
Guardians of **ROBERT T. "Bo" PORTER, A**  
**Minor**

**Plaintiffs,**

**vs.**

**SMITHKLINEBEECHAM CORPORATION**  
**D/B/A GLAXOSMITHKLINE, INC.**  
One Franklin Plaza  
Philadelphia, PA 19102

**Defendant.**

**COURT OF COMMON PLEAS**  
**TRIAL DIVISION**  
**PHILADELPHIA COUNTY**

**DOCKET NO. 070903275**

**SEPTEMBER TERM, 2007**

**PAXIL PREGNANCY**

**PLAINTIFFS' UNOPPOSED MOTION FOR ADMISSION**  
**PRO HAC VICE OF ALEXANDER G. DWYER**

Plaintiffs by and through their counsel, Rosemary Pinto, Esq., Feldman & Pinto, bring this Unopposed Motion for Vice Admission *Pro Hac Vice* and in support thereof avers as follows:

1. The Movant is Rosemary Pinto a duly admitted member in good standing in support thereof aver as follows:

2. Pursuant to Rule 301 of the Pennsylvania Bar Admission Rules, the Movant requests the Pro Hac Vice admission of **Alexander G. Dwyer** of the law firm **ARNOLD & ITKIN LLP**, 1401 McKinney Street, Suite 2550, Houston, Texas 77010, to act as counsel for Plaintiffs in the above-captioned matter only.



3. The Movant avers that **Alexander G. Dwyer** is a member in good standing of the Bar of the State of Texas. In support, see the Certificate of Good Standing from the State Bar of Texas which is attached.

4. **Alexander G. Dwyer** specializes in cases involving personal injury such as the instant case and has more than two (2) years experience as a civil trial attorney.

5. **Alexander G. Dwyer** was hired by Plaintiffs to represent them in this claim and Plaintiffs wish **Alexander G. Dwyer** to continue representing them as counsel.

6. **Alexander G. Dwyer** is familiar with the subject matter of this litigation and his appearance on behalf of the Plaintiffs is in the interest of justice and has been assisting counsel in the matter.

7. The Movant will continue to represent Plaintiffs as counsel of record and maintains a local office in Philadelphia, Pennsylvania, and has represented numerous plaintiffs in the Court of Common Pleas of Philadelphia County.

8. Rule of Admission 301 provides that a motion to practice Pro Hac Vice shall be granted unless good cause for denial shall appear.

Plaintiffs respectfully request that this Honorable Court grant their Unopposed Motion for Admission *Pro Hac Vice* of **Alexander G. Dwyer** of the law firm ARNOLD & ITKIN LLP, to act as counsel in the above-captioned matter only, on their behalf.

**FELDMAN & PINTO**

By: /s/ Rosemary Pinto  
Rosemary Pinto

FEB/01/2010/MON 06:04 PM

FAX No.

P. 007



SUPREME COURT OF PENNSYLVANIA  
PENNSYLVANIA INTEREST ON  
LAWYERS TRUST ACCOUNT BOARD

February 01, 2010

Sent by fax to 713-222-3850

Alexander G. Dwyer, Esq.  
1401 McKinney St.  
Suite 2550  
Houston, TX 77010

Dear Attorney Dwyer:

This letter serves as the fee payment certification referenced in 204 Pa Code §81.503 and acknowledges receipt of the \$100 fee paid by Check, no. 22235, on this date related to your pursuit for admission pro hac vice in the case identified as Robert and Katherine Porter, et al v. SmithKlineBeecham Corporation d/b/a/GlaxoSmithKline, Inc., no. 070903275, filed in the court of Common Pleas of Philadelphia County.

You should refer to Pa Rule of Civil Procedure 1012.1, local court rules, and other regulations of 204 Pa Code §81.501 et. seq. concerning additional requirements related to seeking pro hac vice admission.

Sincerely,

A handwritten signature in black ink, appearing to read "Alfred J. Azen".

Alfred J. Azen  
Executive Director

cc: Rosemary Pinto, Esq.  
(215) 546-9904

G:CL/DOC/PHV/2010/February/February 01 2010

Pennsylvania Judicial Center  
601 Commonwealth Ave., Ste. 2400  
PO Box 62445, Harrisburg, PA 17106-2445  
717/238-2001 • 888/PA-IOLTA (724-8532) • 717/238-2003 FAX  
paiolta@pacourts.us • www.paiolta.org

Administering Pennsylvania's Interest On Lawyers Trust Account (IOLTA) Program

02/01/2010 MON 15:58 [JOB NO. 8183] 007

Case ID: 070903275  
Control No.: 10021372  
SC0041

**Rosemary Pinto, Esq.**  
PA Bar #53114 [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)  
**FELDMAN & PINTO**  
1604 Locust Street, 2<sup>nd</sup> Floor  
Philadelphia, PA 19103  
Tel: 215-546-2604  
Fax: 215-546-9904

**ARNOLD & ITKIN LLP**  
**Kurt B. Arnold**  
Texas State Bar No.: 24032461  
**Michael E. Pierce**  
Texas State Bar No.: 24039117  
**Alexander G. Dwyer**  
Texas State Bar No.: 24054271  
1401 McKinney St., Suite 2550  
Houston, Texas 77010  
Tel: 713-222-3800  
Fax: 713-222-3850  
*Attorneys for Plaintiffs*

**ROBERT AND KATHERINE PORTER,**  
**Individually and as Parents and Natural**  
**Guardians of ROBERT T. "Bo" PORTER, A**  
**Minor**

**Plaintiffs,**

**vs.**

**SMITHKLINEBEECHAM CORPORATION**  
**D/B/A GLAXOSMITHKLINE, INC.**  
**One Franklin Plaza**  
**Philadelphia, PA 19102**

**Defendant.**

**COURT OF COMMON PLEAS**  
**TRIAL DIVISION**  
**PHILADELPHIA COUNTY**

**DOCKET NO. 070903275**

**SEPTEMBER TERM, 2007**

**PAXIL PREGNANCY**

**AFFIDAVIT OF ALEXANDER G. DWYER**

Alexander G. Dwyer, of full age, being duly sworn according to law upon his oath  
deposes and says:

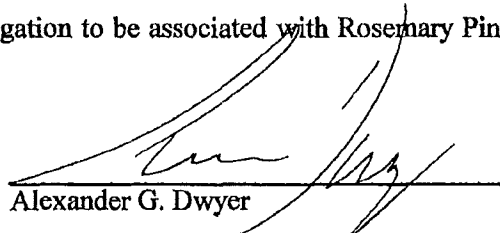
1. I am an attorney at law residing at 1200 Post Oak, # 2613, Houston Texas 77056.
2. I am domiciled in Houston, Harris County, Texas.
3. I am an attorney at law licensed to practice in the State of Texas. I am a member  
in good standing of the Bar of Texas.
4. I am not currently, and never have been, suspended or disbarred in any court.

5. I have been requested by the Plaintiffs to represent them in this matter. I have worked on a number of similar personal injury cases previously, and because of my prior experience in this type of litigation, especially involving personal injury, Plaintiffs have asked me to be lead counsel in regard to their case.

6. I will be associated in this matter with the law firm of Feldman & Pinto, located in Philadelphia, Pennsylvania.

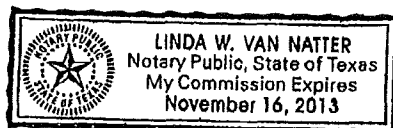
7. In the event that my application for admission pro hac vice in this case is granted, I agree without limitation, that I shall:

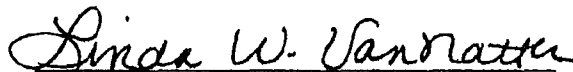
- a. Comply with and meet the requirement of Pennsylvania Rules of Professional Conduct;
- b. Advise the Court immediately should I cease to be an attorney in good standing of the State of Texas and any other matter affecting my standing within the Bar of any other Court;
- c. Continue throughout this litigation to be associated with Rosemary Pinto, of Feldman & Pinto.

  
Alexander G. Dwyer

Subscribed and sworn to before me this 5th day of February, 2010.

[SEAL]



  
Notary Public in and for State of Texas

My Commission Expires: \_\_\_\_\_

# STATE BAR OF TEXAS



## Office of The Chief Disciplinary Counsel

January 21, 2010

RE: **Mr. Alexander Grier Dwyer**  
State Bar Number - 24054271

To Whom it May Concern:

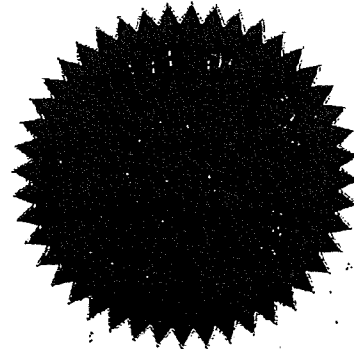
This is to certify that Mr. Alexander Grier Dwyer was licensed to practice law in Texas on November 27, 2007 and is an active member in good standing with the State Bar of Texas.

Good Standing means that the attorney is current on payment of Bar dues and attorney occupation tax; has met Minimum Continuing Legal Education requirements; and is not presently under either administrative or disciplinary suspension.

No disciplinary action involving professional misconduct has been taken against the attorney's law license. This certification expires 30 days from this date, unless sooner revoked or rendered invalid by operation of rule or law.

Linda A. Acevedo  
Chief Disciplinary Counsel

LA/dh



**ROBERT AND KATHERINE PORTER,**  
Individually and as Parents and Natural  
Guardians of **ROBERT T. "Bo" PORTER, A**  
Minor

Plaintiffs,

vs.

**SMITHKLINEBEECHAM CORPORATION**  
**D/B/A GLAXOSMITHKLINE, INC.**  
One Franklin Plaza  
Philadelphia, PA 19102

Defendant.

§ COURT OF COMMON PLEAS  
§ TRIAL DIVISION  
§ PHILADELPHIA COUNTY

§ DOCKET NO. 070903275

§ SEPTEMBER TERM, 2007

§ PAXIL PREGNANCY

**ORDER**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2010, upon consideration of **PLAINTIFFS'** Unopposed Motion for Admission *Pro Hac Vice* of Alexander G. Dwyer of the law firm Arnold & Itkin LLP, it is **ORDERED** that said motion is **GRANTED**. Alexander G. Dwyer is admitted as co-counsel for Plaintiffs *Pro Hac Vice* in the above-captioned matter.

**BY THE COURT:**

**ATTORNEY GOOD FAITH CERTIFICATION**

Rosemary Pinto, attorney for Plaintiffs in this matter, hereby states that the facts set forth in the foregoing Unopposed Motion for Admission *Pro Hac Vice* of Alexander G. Dwyer of the law firm Arnold & Itkin LLP, are true and correct to the best of his knowledge, information and belief. Counsel for Plaintiffs has contacted opposing counsel regarding the subject of the attached Motion for Admission *Pro Hac Vice*, and opposing counsel has agreed not to oppose the motion. This statement is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DATED: February 8, 2010

/s/ Rosemary Pinto  
Rosemary Pinto

**CERTIFICATE OF SERVICE**

I, Rosemary Pinto, of the law firm Feldman & Pinto, hereby certify that a true and correct copy of the foregoing Unopposed Motion for Admission *Pro Hac Vice*, was filed with the Prothonotary of the Philadelphia Court of Commons Pleas and mailed by U.S. mail postage pre-paid, this 8 day of February, 2010, to all counsel of record as noted below.

Joseph E. O'Neil  
Carolyn L. McCormack  
Lavin, O'Neil, Ricci, Cedrone & DiSipio  
137 N. 9th Street  
Philadelphia, PA 19107

*Counsel for Defendant SmithKline Beecham Corporation d/b/a  
GlaxoSmithKline*

**FELDMAN & PINTO**

By: /s/ Rosemary Pinto  
Rosemary Pinto  
Attorney for Plaintiffs



Porter Etal Vs Smithkli-ORDER



07090327500020

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

<b>ROBERT and KATHERINE PORTER</b>	:	
<b>Individually and as Parents and Natural</b>	:	
<b>Guardians of ROBERT T. "Bo" PORTER, A</b>	:	SEPTEMBER TERM, 2007
<b>Minor</b>	:	
	:	
Plaintiffs	:	NO: 03275
	:	
vs.	:	
	:	CONTROL NO: 10021372
	:	
<b>SMITHKLINEBEECHAM CORPORATION</b>	:	
<b>d/b/a GLAXOSMITHKLINE, INC.,</b>	:	

**ORDER**

AND NOW THIS 19th day of Feb, 2010, it is hereby

**ORDERED** and **DECREED** that the Motion for Admission Pro Hac Vice is **GRANTED**, and Alexander G. Dwyer, Esquire of the law firm Arnold & Itkin, LLP, 1401 McKinney Street, Suite 2550, Houston, Texas 77010, is hereby admitted Pro Hac Vice for purposes of this matter after obtaining the appropriate City of Philadelphia Business Privilege Tax License pursuant to 19-2602 of the Philadelphia Code. Pro Hac Vice Counsel shall pay all City Business and Wage tax as required.

BY THE COURT:

DOCKETED  
COMPLEX LIT. CENTER

FEB 19 2010

L. RYANT-DAVIS

SANDRA MAZER MOSS, J.  
COORDINATING JUDGE  
COMPLEX LITIGATION CENTER

**UNCONTESTED**

# PHILADELPHIA COURT OF COMMON PLEAS PETITION/MOTION COVER SHEET

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE:
Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at <a href="http://courts.phila.gov">http://courts.phila.gov</a>	

**CONTROL NUMBER:**

11101004

(RESPONDING PARTIES MUST INCLUDE THIS  
NUMBER ON ALL FILINGS)

September Term, 2007  
Month Year  
No. 03275

PORTER ETAL VS SMITHKLINEBEECHAM CORP

Name of Filing Party:

KATHERINE PORTER-PLF  
KATHERINE PORTER-PNGD  
ROBERT PORTER-PLF

**INDICATE NATURE OF DOCUMENT FILED:**

☐ Petition (Attach Rule to Show Cause) ☒ Motion  
☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☐ Yes ☐ NoIs another petition/motion pending? ☐ Yes ☐ No

If the answer to either question is yes, you must identify the judge(s):

TYPE OF PETITION/MOTION (see list on reverse side)		PETITION/MOTION CODE (see list on reverse side)
MOTION TO WITHDRAW APPEARANCE		MTWDA
ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding):		
<b>I. CASE PROGRAM</b>  OTHER PROGRAM  Court Type: <u>MASS TORT</u> Case Type: <u>MASS TORT - PAXIL-BIRTH DEFECT</u>	<b>II. PARTIES (required for proof of service)</b> (Name, address and <b>telephone number</b> of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)  MARK S KARPO 137 N. 9TH ST. , PHILADELPHIA PA 19107 JOSEPH E ONEIL 190 N. INDEPENDENCE MALL WEST 6TH & RACE STREETS SUITE 500 , PHILADELPHIA PA 19106 MARY GRACE MALEY 190 N. INDEPENDENCE MALL WEST 6TH & RACE STREETS SUITE 500 , PHILADELPHIA PA 19106 CAROLYN L. MCCORMACK 190 N. INDEPENDENCE MALL WEST 6TH & RACE STREETS SUITE 500 , PHILADELPHIA PA 19106 KURT B. ARNOLD 1401 MCKINNEY STREET , HOUSTON TX 77010	
<b>III. OTHER</b>		

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

October 11, 2011

JASON A. ITKIN

(Attorney Signature/Unrepresented Party)

(Date)

(Print Name)

(Attorney I.D. No.)

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.  
No extension of the Answer/Response Date will be granted even if the parties so stipulate.

ROBERT PORTER-PNGD  
ROBERT T PORTER-PMNR

MICHAEL E. PIERCE  
1401 MCKINNEY STREET , HOUSTON TX  
77010  
ALEXANDER G. DWYER  
ARNOLD & ITKIN, LLP 1401 MCKINNEY  
STREET STE 2550 , HOUSTON TX 77010

**FILED**

11 OCT 2011 02:16 pm

**Civil Administration****J. EVERS**

Kurt B. Arnold  
 Jason A. Itkin  
 ARNOLD & ITKIN LLP  
 1401 McKinney, Suite 2550  
 Houston, TX 77010  
 Office: (713) 222-3800  
 Facsimile: (713) 222-3850

Rosemary Pinto, Esquire  
 FELDMAN & PINTO  
 1604 Locust Street, 2R  
 Philadelphia, PA 19103  
 Office: (215) 546-2604  
 Facsimile (215) 546-9904  
 email: [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)

*Attorney for Plaintiffs*

<b>ROBERT PORTER AND KATHERINE          PORTER, Individually and as Parents and          Natural Guardian of ROBERT T. "BO"          PORTER, A Minor</b>  Plaintiffs  vs.  <b>SMITHKLINE BEECHAM CORPORATION          d/b/a GLAXOSMITHKLINE, INC.</b>  Defendant.	: COURT OF COMMON PLEASE : TRIAL DIVISION : PHILADELPHIA COUNTY : : COURT TERM: SEPTEMBER 2007 : : DOCKET NO: 003275 : : IN RE PAXIL PREGNANCY CASES : : JURY TRIAL DEMANDED
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**PETITION OF ARNOLD & ITKIN LLP AND FELDMAN & PINTO, P.C.  
 FOR LEAVE TO WITHDRAW**

Arnold & Itkin LLP and Feldman & Pinto, P.C. hereby petition the Court for Leave to Withdraw as Counsel for the Plaintiffs in the above-captioned matter. In support of this petition, Petitioners avers that:

1. Petitioner, as counsel for Plaintiffs, Robert T. "Bo" Porter, a minor, and Robert Porter and Katherine Porter, his parents, whose last known address is 110 Park Place, Bath, NY 14810, filed a complaint against the Defendant, SmithKline Beecham Corporation d/b/a, GlaxoSmithKline, Apotex Corp. and Apotex, Inc. alleging that the minor plaintiff, whose date of birth is March 10,

2006, suffered congenital birth defects as a result of the minor plaintiff's mother's ingestion of Paxil, Paxil OS, or Paxil CR, or Paroxetine ("Paxil") during the subject pregnancy.

2. In compliance with this court's discovery orders, Petitioner served fact sheets/authorizations on Defendant on May 22, 2010, and subsequently served supplemental fact sheets on July 15, 2008, January 4, 2010, January 7, 2011 and February 16, 2011.

3. While continuing to investigate the claims of Plaintiffs, through the retrieval and review of various records, facts have arisen which have created a fundamental disagreement between Petitioner and Plaintiffs. The factual basis for the fundamental disagreement cannot be disclosed without waiving the attorney-client privilege and work production privilege.

4. Petitioner has contacted the Plaintiff and explained the need for Petitioner to withdraw. Petitioner will produce any correspondence to Plaintiffs, *in camera*, if the Court requests.

5. To date, plaintiffs have failed to notify petitioner of new counsel agreeing to substitute into this matter.

6. The withdrawal of the Petitioner can be accomplished without a material adverse effect on the interests of the client. *See Pa. Rules of Prof. Conduct* 1.16(b)(1). Plaintiffs are currently under no impending obligation from discovery deadlines or other orders from this court. Plaintiffs have served all required fact sheets and authorizations.

7. To date upon information and belief no substitute counsel has been retained to proceed with the litigation.

8. As a result of the foregoing, Petitioner hereby petitions the Court to withdraw as counsel in this matter.

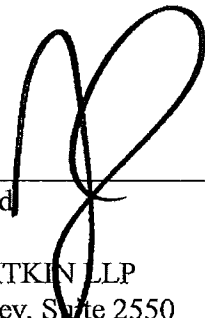
9. Petitioner requests that Plaintiffs be given an additional sixty (60) days from the date of entry of the Order of Withdrawal to find new counsel. Petitioner further requests that during that

sixty (60) days, or until the entry of appearance by new counsel for the plaintiffs, whichever is earlier, that no action by any party may be taken.

WHEREFORE, petitioners respectfully request this Honorable Court to grant the instant Petition for Leave to Withdraw and enter the proposed Order attached hereto.

Respectfully Submitted,

Dated: 10.11.11



---

Kurt B. Arnold  
Jason A. Itkin  
ARNOLD & ITKIN LLP  
1401 McKinney, Suite 2550  
Houston, TX 77010  
Office: (713) 222-3800  
Facsimile: (713) 222-3850

Rosemary Pinto, Esquire  
Identification No. 53114  
FELDMAN & PINTO  
1604 Locust Street, 2R  
Philadelphia, PA 19103  
Office: (215) 546-2604  
Facsimile (215) 546-9904  
email: [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)

**CERTIFICATE OF SERVICE**

I, hereby certify that a true and correct copy of the foregoing was served via facsimile as follows:

Via Fax (215) 627-2551

Joseph E. O'Neil

Carolyn L. McCornack

Lavin, O'Neil, Ricci, Cedrone & DiSipio

190 N. Independence Mall West, Suite 500

Philadelphia, PA 19106

Via Fax (405) 572-5136

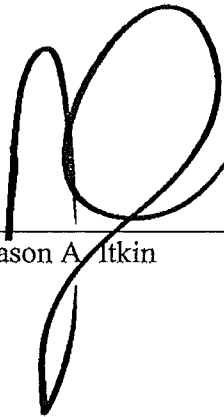
Robert K. Woo

King & Spalding

1180 Peachtree Street, NE

Atlanta, GA 30309

Date: 10.11.11

  
\_\_\_\_\_  
Jason A. Itkin

**FILED**

11 OCT 2011 02:16 pm

**Civil Administration****J. EVERS**

Kurt B. Arnold  
 Jason A. Itkin  
 ARNOLD & ITKIN LLP  
 1401 McKinney, Suite 2550  
 Houston, TX 77010  
 Office: (713) 222-3800  
 Facsimile: (713) 222-3850

Rosemary Pinto, Esquire  
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 email: [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)

*Attorney for Plaintiffs*

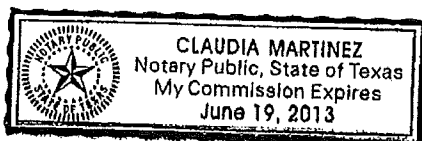
<b>ROBERT PORTER AND KATHERINE</b> <b>PORTER, Individually and as Parents and</b> <b>Natural Guardian of ROBERT T. "BO"</b> <b>PORTER, A Minor</b>  Plaintiffs  vs.  <b>SMITHKLINE BEECHAM CORPORATION</b> <b>d/b/a GLAXOSMITHKLINE, INC.</b>  Defendant.	: <b>COURT OF COMMON PLEASE</b> : <b>TRIAL DIVISION</b> : <b>PHILADELPHIA COUNTY</b> : : <b>COURT TERM: SEPTEMBER 2007</b> : : <b>DOCKET NO: 003275</b> : : <b>IN RE PAXIL PREGNANCY CASES</b> : : <b>JURY TRIAL DEMANDED</b>
---	---

**AFFIDAVIT**

I, Jason A. Itkin, being duly sworn according to law, hereby depose and say that the facts set forth in the foregoing Petition of Arnold & Itkin LLP and Feldman & Pinto, P.C. for Leave to Withdraw are true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
 Jason A. Itkin

SWORN TO AND SUBSCRIBED BEFORE ME this 11<sup>th</sup> day of October, 2011.



*Claudia Martinez*  
 Notary Public

Case ID: 070903275

Control No.: 11101004

SC0055



**FILED**

11 OCT 2011 02:16 pm

**Civil Administration**

J. EVERS

---

<b>ROBERT PORTER AND KATHERINE</b>	:	<b>COURT OF COMMON PLEASE</b>
<b>PORTER, Individually and as Parents and</b>	:	<b>TRIAL DIVISION</b>
<b>Natural Guardian of ROBERT T. "BO"</b>	:	<b>PHILADELPHIA COUNTY</b>
<b>PORTER, A Minor</b>	:	
	:	
Plaintiffs	:	<b>COURT TERM: SEPTEMBER 2007</b>
vs.	:	
	:	<b>DOCKET NO: 003275</b>
<b>SMITHKLINE BEECHAM CORPORATION</b>	:	
<b>d/b/a GLAXOSMITHKLINE, INC.</b>	:	<b>IN RE PAXIL PREGNANCY CASES</b>
	:	
Defendant.	:	<b>JURY TRIAL DEMANDED</b>

---

**ORDER**

AND Now, this \_\_\_\_ day of \_\_\_\_\_, 2011, an upon consideration of the Petition of Arnold & Itkin LLP and Feldman & Pinto, P.C., ORDERED and DECREED that petitioners, Arnold & Itkin LLP and Feldman & Pinto, P.C., may withdraw as counsel and that Plaintiffs may have sixty (60) days from this date or until new counsel has entered their appearance.

BY THE COURT:

\_\_\_\_\_

**FILED**

11 OCT 2011 02:16 pm

**Civil Administration**

J. EVERS

---

<b>ROBERT PORTER AND KATHERINE PORTER, Individually and as Parents and Natural Guardian of ROBERT T. "BO" PORTER, A Minor</b>  Plaintiffs  vs.  <b>SMITHKLINE BEECHAM CORPORATION d/b/a GLAXOSMITHKLINE, INC.</b>  Defendant.	: COURT OF COMMON PLEASE : TRIAL DIVISION : PHILADELPHIA COUNTY : : COURT TERM: SEPTEMBER 2007 : : DOCKET NO: 003275 : : IN RE PAXIL PREGNANCY CASES : : JURY TRIAL DEMANDED
---	--

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**RULE TO SHOW CAUSE**

AND Now, this \_\_\_\_ day of \_\_\_\_\_, 2011, an Order is entered upon all parties to show cause why Petitioners, Arnold & Itkin LLP and Feldman & Pinto, P.C. should not permitted to withdraw as counsel. All proceedings to stay meanwhile.

RULE RETURNABLE, \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2011, in Courtroom \_\_\_\_ of the Court of Common Pleas of Philadelphia County.

BY THE COURT:

\_\_\_\_\_

**FILED**  
 13 OCT 2011 12:20 pm  
**Civil Administration**  
 L. OWENS

Kurt B. Arnold  
 Jason A. Itkin  
 ARNOLD & ITKIN LLP  
 1401 McKinney, Suite 2550  
 Houston, TX 77010  
 Office: (713) 222-3800  
 Facsimile: (713) 222-3850

Rosemary Pinto, Esquire  
 FELDMAN & PINTO  
 1604 Locust Street, 2R  
 Philadelphia, PA 19103  
 Office: (215) 546-2604  
 Facsimile (215) 546-9904  
 email: [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)

*Attorney for Plaintiffs*

<b>ROBERT PORTER AND KATHERINE          PORTER, Individually and as Parents and          Natural Guardian of ROBERT T. "BO"          PORTER, A Minor</b> <div style="text-align: right;">Plaintiffs</div>	: COURT OF COMMON PLEASE : TRIAL DIVISION : PHILADELPHIA COUNTY : : COURT TERM: SEPTEMBER 2007 : : DOCKET NO: 003275 : : IN RE PAXIL PREGNANCY CASES : : JURY TRIAL DEMANDED
vs.  <b>SMITHKLINE BEECHAM CORPORATION          d/b/a GLAXOSMITHKLINE, INC.</b> <div style="text-align: right;">Defendant.</div>	

---

**PRAECIPE TO WITHDRAW MOTION**

To The Prothonotary:

Kindly Withdraw Plaintiffs Motion of Arnold & Itkin LLP and Feldman & Pinto, P.C. for  
 Leave to Withdraw that was filed with the Court on October 11, 2011, **Control Number:**  
**11101004.**

Respectfully Submitted,

Dated: 10/13/11

/s/ Jason A. Itkin  
Kurt B. Arnold  
Jason A. Itkin  
ARNOLD & ITKIN LLP  
1401 McKinney, Suite 2550  
Houston, TX 77010  
Office: (713) 222-3800  
Facsimile: (713) 222-3850

Rosemary Pinto, Esquire  
Identification No. 53114  
FELDMAN & PINTO  
1604 Locust Street, 2R  
Philadelphia, PA 19103  
Office: (215) 546-2604  
Facsimile (215) 546-9904  
email: [rpinto@feldmanpinto.com](mailto:rpinto@feldmanpinto.com)

**CERTIFICATE OF SERVICE**

I, hereby certify that a true and correct copy of the foregoing was served via facsimile as follows:

Via Fax (215) 627-2551

Joseph E. O'Neil

Carolyn L. McCornack

Lavin, O'Neil, Ricci, Cedrone & DiSipio

190 N. Independence Mall West, Suite 500

Philadelphia, PA 19106

Via Fax (405) 572-5136

Robert K. Woo

King & Spalding

1180 Peachtree Street, NE

Atlanta, GA 30309

Date: 10/13/11

/s/ Jason A. Itkin

Jason A. Itkin

PHILADELPHIA COURT OF COMMON PLEAS  
**PETITION/MOTION COVER SHEET**

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE: 05/23/2012
Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at <a href="http://courts.phila.gov">http://courts.phila.gov</a>	

**CONTROL NUMBER:**

12050436

(RESPONDING PARTIES MUST INCLUDE THIS  
 NUMBER ON ALL FILINGS)

September Term, 2007  
 Month Year  
 No. 03275

PORTER ETAL VS SMITHKLINEBEECHAM CORP

Name of Filing Party:

KATHERINE PORTER-PLFKATHERINE PORTER-PNGDROBERT PORTER-PLF**INDICATE NATURE OF DOCUMENT FILED:**

☐ Petition (Attach Rule to Show Cause) ☒ Motion  
☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☐ Yes ☐ NoIs another petition/motion pending? ☐ Yes ☐ No

If the answer to either question is yes, you must identify the judge(s):  
 JUDGE MOSS

TYPE OF PETITION/MOTION (see list on reverse side) MOTION TO AMEND	PETITION/MOTION CODE (see list on reverse side) MTAMD
---	---

ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding):

**I. CASE PROGRAM**

OTHER PROGRAM

Court Type: MASS TORTCase Type: MASS TORT - PAXIL-BIRTH DEFECT**II. PARTIES (required for proof of service)**

(Name, address and **telephone number** of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)

MARK S KARPO

137 N. 9TH ST. , PHILADELPHIA PA 19107

JOSEPH E ONEIL

190 N. INDEPENDENCE MALL WEST 6TH &amp; RACE STREETS SUITE 500 , PHILADELPHIA PA 19106

MARY GRACE MALEY

190 N. INDEPENDENCE MALL WEST 6TH &amp; RACE STREETS SUITE 500 , PHILADELPHIA PA 19106

CAROLYN L. McCORMACK

190 N. INDEPENDENCE MALL WEST 6TH &amp; RACE STREETS SUITE 500 , PHILADELPHIA PA 19106

KURT B. ARNOLD

1401 MCKINNEY STREET , HOUSTON TX 77010

**III. OTHER**

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see P.A. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

May 3, 2012

ROSEMARY PINTO

(Attorney Signature/Unrepresented Party)

(Date)

(Print Name)

(Attorney I.D. No.)

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.  
 No extension of the Answer/Response Date will be granted even if the parties so stipulate.

ROBERT PORTER-PNGD  
ROBERT T PORTER-PMNR

MICHAEL E. PIERCE  
1401 MCKINNEY STREET , HOUSTON TX  
77010  
ALEXANDER G. DWYER  
ARNOLD & ITKIN, LLP 1401 MCKINNEY  
STREET STE 2550 , HOUSTON TX 77010

**FILED**

03 MAY 2012 11:11 am

**Civil Administration**

J. EVERS

**ARNOLD & ITKIN LLP**

A REGISTERED LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

1401 MCKINNEY STREET, SUITE 2550

HOUSTON, TEXAS 77010

(713) 222-3800

(713) 222-3850 (FAX)

[www.arnolditkin.com](http://www.arnolditkin.com)

May 3, 2012

**Plaintiffs' Motion for Leave to File First  
Amended Civil Action Complaint – Short Form**

**Filed: May 3, 2012**

**Opposing Counsel: Joseph E. O'Neil  
Mary Grace Maley  
Carolyn McCormack**

**Control No.**

The Honorable Sandra Mazer-Moss,  
Court of Common Pleas of  
Philadelphia County  
Complex Litigation Center – Room 622  
Philadelphia, PA 19107  
Attention: Donna Candelora, Esquire

**RE: *Robert Porter and Katherine Porter, Individually and as Parents and Natural  
Guardians of Robert T. "Bo" Porter, A, Minor v. SmithKline Beecham  
Corporation d/b/a GlaxoSmithKline  
September Term, 2007, No. 03275***

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**PLAINTIFFS' MOTION FOR LEAVE TO FILE  
FIRST AMENDED CIVIL ACTION COMPLAINT - SHORT FORM**



Dear Judge Moss:

Plaintiffs, Robert Porter and Katherine Porter, individually and as parents and natural guardian of Robert T. “Bo” Porter, a minor, hereby submit this letter brief and incorporated Motion for Leave to File First Amended Civil Action Complaint—Short Form, in the above-captioned matter which does not currently have a trial, and would respectfully show the Court as follows:

### Summary

This matter involves the diagnosis of congenital intestinal defect and pulmonary hypertension In re “Paxil” Litigation filed in the Court of Common Pleas, Philadelphia County, September, 2007, under Master Docket Number 3220—February Term 2007. (*See* Plaintiffs’ Long Form Complaint, a copy of which is attached hereto as Exhibit A.)

On November 19, 2007, Plaintiffs filed a Civil Action Complaint—Short Form against Defendants, Smith Kline Beecham Corporation d/b/a On November 27, 2007, d/b/a GlaxoSmithKline (hereinafter, “GSK”). (*See* Plaintiffs’ Short Form Complaint, a copy of which is attached hereto as Exhibit B.) Through investigation Plaintiffs have learned that the Plaintiff mother ingested Zoloft as well as Paxil. As Zoloft was manufactured and sold by Pfizer, Inc., Plaintiffs seek leave to file a First Amended Short Form Complaint to add Pfizer Inc, Inc. (hereinafter, “Pfizer”). (*See* Plaintiffs’ proposed First Amended Short Form Complaint, a copy of which is attached hereto as Exhibit C.)

This case does not currently have a trial date and neither GSK nor Pfizer is prejudiced by joining Pfizer. Defendant GSK is opposed to the instant motion.

### ARGUMENT

The “trial court has broad discretion in ruling on a party’s motion to amend the pleadings,” and, accordingly, “[a]mendments are liberally allowed under Rule 1033 of the Pennsylvania Rules of Civil Procedure.” *Pustl v. Means*, 982 A.2d 550, 553 (Pa. Super. 2009).<sup>1</sup> Rule 1033 provides that “[a] party, either by filed consent of the adverse party or by leave of court, *may at any time change the form of action*, correct the name of a party or *amend his pleading*.” (emphases added). The court may deny a motion for leave to amend only “when it is

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<sup>1</sup> *See Cellutron Prods. Corp. v. Stewart*, 300 A.2d 900, 901 (Pa. Super. 1972); *Standard Pipeline Coating Co., Inc. v. Solomon & Teslovich*, 496 A.2d 840, 844 (1985) (the right to amend “should be granted liberally”); *see also Winterhalter v. West Penn. Power Co.*, 512 A.2d 1187, 1189 (Pa. Super. 1986) (“Although no absolute right to amend exists, the courts of this Commonwealth have liberally construed the principal embodied in this rule. Consequently, courts have allowed amendments of pleadings *at any time*, as provided by the specific language of this statute.”) (emphasis in original).

against a positive rule of law, where it states a new cause of action after the statute of limitations has run, or when it will surprise or prejudice the opposing party.” *Pusl*, 982 A.2d at 554.

Likewise, a court may find “prejudice” only where the party opposing the amendments has proved that it suffered “more than a detriment . . . since any amendment almost certainly will be designed to strengthen the legal position of the amending party and correspondingly to weaken the position of the adverse party.” *Standard Pipeline Coating Co., Inc.*, 496 A.2d at 844 (quoting *Cellutron Prods. Corp.*, 300 A.2d at 901 (“The fact that the adverse party would be placed at a disadvantage does not in itself bar the making of an amendment since the very purpose of amending is to improve one’s position in order to place the adverse party at a disadvantage.”)).

“It has been consistently held that ‘unreasonable delay’ . . . is an insufficient ground upon which to base a denial of an amendment motion.” *Horowitz*, 580 A.2d at 399. Thus, in proving prejudice, a party “must establish more than undue delay before the liberal policy of amendment entrenched in Pennsylvania case law will be overcome.” *Id.* (citing *Carpitella by Carpitella v. Consolidated Rail Corp.*, 533 A.2d 762, 764 (1987)). Likewise, that a party has spent time and money preparing for trial will usually not suffice to meet this standard. *James A. Mann, Inc. v. Upper Darby School Dist.*, 513 A.2d 528, 530-31 (Pa. Cmwlth. 1986) (reversing denial of leave to amend original pleading, where “common pleas court misconstrued the type of prejudice required to be suffered by an adverse party in order to warrant denying leave of court to amend a pleading under [Rule] 1033,” in considering that “[a]ll parties ha[d] undergone extensive, lengthy and, perhaps, expensive discovery in order to prepare properly for trial,” in denying the proposed amendment).

Here, neither GSK nor Pfizer can show prejudice. Moreover, there is no positive rule of law forbidding Plaintiffs’ amendments and Plaintiffs have not pled a cause of action outside the statute of limitation.



**ATTORNEY CERTIFICATION OF GOOD FAITH**

Jason Itkin, the undersigned counsel for Plaintiff, hereby certifies and attests that Robert Woo, Esquire, counsel for GSK, was contacted regarding Plaintiff's Motion for Leave to File First Amended Complaint and is opposed to the Motion and entry of the attached Order.

DATED: May 3, 2012

/s/ Jason Itkin  
Jason A. Itkin

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing has been forwarded to counsel of record, by the undersigned, pursuant to the Pennsylvania Rules of Civil Procedure on the 3rd day of May, 2012.

Joseph E. O'Neil, Esquire  
Carolyn McCormack, Esquire  
Mary Grace Malley, Esquire  
Lavin, O'Neil, Ricci, Cedrone & Disipio  
190 N Independence Mall W, Suite 500  
6<sup>th</sup> and Race Streets  
Philadelphia, PA 19106

/s/ Jason Itkin \_\_\_\_\_  
Jason A. Itkin

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

ROBERT PORTER and KATHERINE PORTER,  
Individually and as Parents and Natural Guardian of  
ROBERT T. "BO" PORTER, A Minor

vs.

SMITHKLINE BEECHAM CORPORATION d/b/a  
GLAXOSMITHKLINE and PAR  
PHARMACEUTICAL, INC.

\* COURT OF COMMON PLEAS  
\* TRIAL DIVISION  
\* PHILADELPHIA COUNTY  
\*  
\* SEPTEMBER 2007 Term  
\*  
\* No. 03275  
\*  
\* "PAXIL" CASE  
\*  
\*  
\* JURY TRIAL DEMAND  
\*

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2012 it is hereby  
ORDERED and DECREED that, the Plaintiffs' Motion for Leave to File First Amended  
Complaint is GRANTED. Plaintiffs' First Amended Short Form Complaint, attached as Exhibit  
"C" to the Motion for Leave is deemed filed as of the date of entry of this Order.

BY THE COURT:

\_\_\_\_\_  
J.



**FILED**

03 MAY 2012 11:11 am

**Civil Administration**

J. EVERS

## EXHIBIT “A”



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 Facsimile: 215.569.8228

*Attorneys for Plaintiffs*

**ATTEST**

MAR 7 2007

M. SIMMONS  
 PRO. PROTHY

**This is not an arbitration matter.  
 Assessment of damages hearing is  
 required**

**IN RE: PAXIL PREGNANCY CASES**

: **COURT OF COMMON PLEAS**  
 : **TRIAL DIVISION**  
 : **OF PHILADELPHIA COUNTY**  
 :  
 :  
 : **FEBRUARY TERM, 2007**  
 :  
 : **MASTER DOCKET NO. 3220**  
 :  
 :  
 : **JURY TRIAL DEMANDED**

**Notice To Defend**

**NOTICE**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lawyer Referral and Information Service  
 Philadelphia Bar Association  
 1101 Market Street - 11<sup>th</sup> Floor  
 Philadelphia, PA 19107  
 (215) 238-1701

**AVISO**

USTED HA SIDO DEMANDADO/A EN LA CORTE. SI usted desea defender contra las demandas puestas en las siguientes páginas, usted tiene que tomar acción dentro de veinte (20) días después que esta demanda y Aviso es servido, con entrando por escrito una apariencia personalmente o por un abogado y archivando por escrito con la Corte sus defensas o objeciones a las demandas puestas en contra usted. Usted es advertido que si falla de hacerlo el caso puede proceder sin usted y una sentencia puede ser entrado contra usted por la Corte sin más aviso por cualquier dinero reclamado en la Demanda o por cualquier otro reclamo o alivio solicitado por el Demandante. Usted puede perder dinero o propiedad o otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA OR LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACIÓN DE LICENCIADOS DE FILADELFA  
 SERVICIO DE REFERENCIA E INFORMACIÓN LEGAL  
 1101 Market Street - 11<sup>th</sup> Floor  
 Philadelphia, PA 19107  
 (215) 238-1701

Case ID: 070903275

Control No.: 12050436  
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IN RE: PAXIL PREGNANCY CASES

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

FEBRUARY TERM, 2007

MASTER DOCKET NO.: 3220

PLAINTIFFS' GENERAL  
MASTER LONG-FORM  
COMPLAINT, AND JURY  
DEMAND

Pursuant to an Order by the Honorable Paul P. Panepinto, the undersigned attorneys for plaintiffs in the "Paxil Pregnancy" actions bring this Master General Long-Form Complaint against the defendant, SmithKline Beecham Corporation d/b/a/ GlaxoSmithKline (hereinafter "GSK").

**PLAINTIFFS**

1. Pursuant to the Order of this Court, this Complaint is a Master Complaint filed for all plaintiffs in the "Paxil Pregnancy Cases." All allegations pleaded herein are deemed pleaded in any "Short-Form" Complaint hereafter filed.

2. The "Infant Plaintiffs" or "Decedents" referred to herein are minor children who were born with congenital birth defects, heart defects, PPHN and/or other related conditions or who suffered from various pulmonary disorders as a result of their mothers, ("Mother Plaintiffs") taking Paxil during their pregnancies. The Infant Plaintiffs are represented in these actions by their parents, ("Parent Plaintiffs") who are their next of friend pursuant to Pa. R.C.P. No 2026.

3. The "Mother Plaintiffs" referred to herein are competent adults and the mothers of the Infant Plaintiffs or Decedents in these actions. They bring these actions individually and on behalf of their minor children or as the Personal Representative of the estate of their deceased infant children to recover medical and other expenses related to treatment resulting from their child's birth defect, disorder and/or related illnesses and general and special damages.

4. The "Father Plaintiffs" referred to herein are competent adults and the fathers of the Infant Plaintiffs or Decedents in these actions. They bring these actions individually and on behalf of their minor children or as the Personal Representative of the estate of their deceased infant children to recover medical and other expenses relating to treatment resulting from their child's birth defect, disorder and/or related illnesses and general and special damages.

5. "Plaintiffs" as used herein refers to the Infant Plaintiffs, Mother Plaintiffs and Father Plaintiffs collectively.

**DEFENDANT**

6. Defendant GSK was and still is a corporation duly existing under and by virtue of the laws of the State of Pennsylvania with its principal place of business in Philadelphia, Pennsylvania. At all times, defendant GSK was, and still is, a pharmaceutical company involved in research, development, testing, manufacture, production, promotion, distribution, and marketing of pharmaceuticals for distribution, sale, and use by the general public throughout the United States, including the drug Paxil (known generically as paroxetine), an antidepressant.

**JURISDICTIONAL ALLEGATIONS**

7. Jurisdiction is proper because GSK is a Pennsylvania corporation. Venue is proper in this District because GSK resides in this county for venue purposes and a substantial part of the events and omissions giving rise to Plaintiffs' injuries occurred in this District. *See* Pa.R.C.P. 2179, as amended by 2003 Pennsylvania Court Order 8.

**GENERAL ALLEGATIONS**

8. The drug "paroxetine" is manufactured, promoted, distributed, labeled and marketed by GSK under the trade name Paxil, Paxil Oral Suspension, and Paxil CR (hereinafter "Paxil"), and is a member of a class of drugs known as "selective serotonin reuptake inhibitors" or "SSRIs." Paxil was first approved for use in the United States by the FDA in 1992 for the treatment of depression in adults.

9. The Mother Plaintiffs took Paxil as prescribed by their treating physicians while pregnant.

10. When the Infant Plaintiffs were born they were suffering from life-threatening congenital defects and/or began to suffer from persistent pulmonary hypertension of the newborn ("PPHN"), a life-threatening disorder in which the newborn's arteries to the lungs remain constricted after delivery, limiting the amount of blood flow to the lungs and therefore the amount of oxygen into the bloodstream, or began to suffer from a similar life-threatening pulmonary condition.

11. The defects suffered by the Infant Plaintiffs were a direct result of his/her mother's ingestion of Paxil during her pregnancy in a manner and dosage recommended and prescribed by her doctor.

12. Prior to the Mother Plaintiffs becoming pregnant, GSK knew or should have known that children were being born with congenital birth defects, heart defects, PPHN and other related conditions to women who took Paxil during pregnancy.

13. Prior to the Mother Plaintiffs becoming pregnant, GSK knew or should have known that taking Paxil during pregnancy poses risks to the developing fetus. GSK knew or should have

known that Paxil crosses the placenta, which could have important implications for the developing fetus.

14. Prior to the time that the Mother Plaintiffs ingested Paxil during their pregnancy, GSK knew or should have known that Paxil posed an increased risk of congenital birth defects, heart defects, PPHN and other related conditions.

15. During the entire time Paxil has been on the market in the United States, FDA regulations have required GSK to issue stronger warnings whenever there existed reasonable evidence of an association between a serious risk and Paxil. The regulations specifically state that a causal link need not have been proven to issue the new warnings. Further, the regulations explicitly allowed GSK to issue such a warning without prior FDA approval.

16. Thus, prior to the Mother Plaintiffs' pregnancies, GSK had the knowledge, the means and the duty to provide the medical community and the consuming public with a stronger warning regarding the association between Paxil and congenital birth defects, heart defects, PPHN and other related conditions, through all means necessary including but not limited to labeling, continuing education, symposiums, posters, sales calls to doctors, advertisements and promotional materials, etc. GSK breached this duty.

17. Plaintiffs filed this lawsuit within the applicable limitations period of first suspecting that said drugs were the cause of Plaintiffs' injuries and/or Decedent's death. Plaintiffs could not, by the exercise of reasonable diligence, have discovered the wrongful cause of the Paxil-induced injuries and deaths at an earlier time because at the time of these injuries and/or deaths the cause was unknown to Plaintiffs. Plaintiffs did not suspect, nor did Plaintiffs have reason to suspect, the cause of these injuries and/or deaths, or the tortious nature of the conduct causing these injuries and deaths, until less than the applicable limitations period prior to the filing of this action. Additionally, Plaintiffs were prevented from discovering this information sooner because the Defendant herein misrepresented and continue to misrepresent to the public and to the medical profession that the

drugs are safe to take during pregnancy and Defendant has fraudulently concealed facts and information that could have led Plaintiffs to discover a potential cause of action.

**COUNT I**

**NEGLIGENCE & NEGLIGENCE PER SE**

18. Plaintiffs repeat and reiterate the allegations set forth above.

19. At all times mentioned herein, GSK was under a duty to exercise reasonable care in researching, manufacturing, selling, merchandising, advertising, marketing, promoting, labeling, testing, distributing and analyzing Paxil to ensure that Paxil's use did not result in avoidable injuries.

20. Plaintiffs' injuries as described herein were caused by the negligence and misrepresentations of GSK through its agents, servants and/or employees acting within the course and scope of their employment including among other things:

(a) Carelessly and negligently researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing, and marketing Paxil;

(b) Failing to fully disclose the results of the testing and other information in its possession regarding the possibility that Paxil can interfere with the proper development of an unborn fetus;

(c) Failing to continually monitor, test and analyze data regarding safety, efficacy and prescribing practices of its marketed drugs, including Paxil;

(d) Being careless and negligent in that GSK knew or should have known that Paxil was a substance that would be actively transported through the placenta during pregnancy and could inhibit the health and development of the fetus;

(e) Negligently and carelessly failing to adequately warn the medical community, the general public and Plaintiffs of the dangers of using Paxil during pregnancy;

(f) Negligently and carelessly representing that Paxil was safe for use during pregnancy, when in fact, GSK knew or should have known that it was unsafe for this use;

(g) Negligently and carelessly promoting Paxil as safe and effective for use with pregnant women when, in fact, it was unsafe;

(h) Negligently and carelessly failing to act as a reasonably prudent drug manufacturer;

(i) Negligently and carelessly over-promoting Paxil in a zealous and unreasonable way, without regard to the potential danger that it poses for an unborn fetus;

(j) GSK promoted Paxil for use with pregnant women despite the fact that GSK knew or should have known that Paxil is associated with an increased risk of congenital abnormalities and pulmonary disorders.

21. Furthermore, GSK's negligence was an un-excused breach of statutory duty established by federal regulations because Plaintiffs have suffered from the kind of harm the regulations were designed to prevent and Plaintiffs are members of the particular class of persons that those regulations were set out to protect.

22. At all times herein mentioned, upon information and belief, the above-described culpable conduct by GSK was a proximate cause of Plaintiffs' injuries. GSK knew or should have known that Paxil is dangerous and unsafe for pregnant women and the developing fetus.

23. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past, and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions, as well as past and future general

and special damages, including future medical care and treatment, in a sum in excess of the jurisdictional minimum of this Court.

24. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

25. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial, and other costs pertaining to their Decedent's death in an amount to be ascertained.

26. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

27. The forgoing actions of the Defendant were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs, and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

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COUNT II

NEGLIGENT PHARMACO-VIGILANCE

28. Plaintiffs repeat and reiterate the allegations set forth above.

29. GSK has an ongoing duty of pharmaco-vigilance. As part of this duty, GSK is required to continually monitor, test and analyze data regarding the safety, efficacy and prescribing practices of its marketed drugs, including Paxil. GSK continually receives reports from its own clinical trials, practicing physicians, individual patients and regulatory authorities of adverse events that occur in patients taking Paxil and its other marketed drugs. Furthermore, GSK continues to conduct clinical trials for its marketed drugs long after the drug is approved for use. GSK has a duty to inform doctors, regulatory agencies and the public of new safety and efficacy information it learns, or should have learned, about its marketed drugs once that information becomes available to GSK, whether through GSK clinical trials, other outside sources or pharmaco-vigilance activities. Specifically, when GSK learns, or should have learned, of new safety information associated with its marketed drugs, it has a duty to promptly disseminate that data to the public. GSK also has a duty to monitor epidemiological and pharmaco-vigilance data regarding its marketed drugs and promptly report any safety concerns that arise through epidemiologic study or data.

30. GSK breached its duty with respect to Plaintiffs. GSK, through various sources, including but not limited to, clinical trials and other adverse event reports, learned that there was a substantial risk of congenital birth defects, heart defects, PPHN and other related conditions, associated with Paxil use during pregnancy and failed to inform doctors, regulatory agencies and the public of this risk. GSK had the means and the resources to perform its pharmaco-vigilance duties for the entire time Paxil has been on the market in the United States.

31. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained pecuniary

loss resulting from the pain and suffering caused by their congenital birth defects, heart defects, PPHN and/or other related conditions, by the surgeries and procedures they have already undergone, and the surgeries and procedures that they will need to undergo in the future, as well as their inability to enjoy their life as a normal child without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

32. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

33. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial and other costs pertaining to their Decedent's death in an amount to be ascertained.

34. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

35. The forgoing actions of the Defendant were actions as described herein, were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs, and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

**COUNT III**

**STRICT LIABILITY**

36. Plaintiffs repeat and reiterate the allegations set forth above.

37. GSK manufacturers and/or supplies Paxil and is strictly liable to Plaintiffs for designing, creating, manufacturing, marketing, labeling, distributing, selling and placing into the stream of commerce the product Paxil.

38. The product Paxil, manufactured and/or supplied by GSK, was defective in design or formulation, in that, when it left the hands of the manufacture and/or supplier, it was unreasonably dangerous, it was more dangerous than an ordinary consumer would expect and more dangerous than other antidepressants.

39. The product, Paxil, that was manufactured and/or supplied by GSK, was defective in design or formulation in that, when it left the hands of the manufacturer and/or supplier, the foreseeable risks exceeded the benefits associated with the design or formulation.

40. The product Paxil, manufactured and/or supplied by GSK, was defective due to inadequate warnings or instructions because the manufacturer knew or should have known that the product created, among other things, when taken during pregnancy, a significant increased risk of congenital birth defects, heart defects, PPHN and/or other related conditions and abnormal development of the unborn child and GSK failed to adequately warn of said risks.

41. The Paxil that was manufactured and/or supplied by GSK was defective due to inadequate pre-market testing.

42. The Paxil that was manufactured and/or supplied by GSK was defective due to GSK's failure to provide adequate initial warnings and post-marketing warnings or instruction after GSK knew or should have known of the risk of increased risk of congenital birth defects, heart

defects, PPHN and/or other related conditions and abnormal development of the unborn child from the use of Paxil during pregnancy and continued to promote the product.

43. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past, and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions, as well as past and future general and special damages, including future medical care and treatment, in a sum in excess of the jurisdictional minimum of this Court.

44. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

45. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial and other costs pertaining to their Decedent's death in an amount to be ascertained.

46. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

47. The forgoing actions of GSK were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs, and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

**COUNT IV**

**FAILURE TO WARN**  
**(Restatement Second of Torts §388)**

48. Plaintiffs repeat and reiterate the allegations set forth above.

49. At all times herein mentioned, Paxil was unsafe for use by pregnant women and GSK knew or should have known that said product was unsafe.

50. At all times herein mentioned, using Paxil during pregnancy was associated with a significantly increased risk of serious congenital birth defects, heart defects, PPHN and/or other related conditions and GSK knew or should have known that said product is unsafe when taken during pregnancy because of the said effects.

51. At all times hereinafter mentioned and before the Mother Plaintiffs' ingestion of Paxil during their pregnancy, neither members of the medical community nor members of the general public knew the dangers existed with respect to Paxil's association with congenital birth defects, heart defects, PPHN and/or other related conditions.

52. The Mother Plaintiffs used Paxil in the manner in which GSK intended it to be used.

53. The Mother Plaintiffs used or otherwise ingested Paxil in the amount and manner and for the purpose recommended by GSK.

54. At all times material hereto, U.S.-marketed Paxil was not accompanied by complete and proper warnings for safe, informed use. Specifically, the labeling accompanying Paxil did not warn physicians in general, or Plaintiffs in particular, of the dangers inherent in its use, particularly of the drug's association with congenital birth defects, heart defects, PPHN and/or other related

conditions. Further, the labeling failed to adequately inform physicians in general, or Plaintiffs in particular, of Paxil's association with a significantly increased risk of congenital birth defects, heart defects, PPHN and/or other related conditions if a woman ingests Paxil during her pregnancy and oversold Paxil's benefits, thus depriving physicians of necessary information needed to perform an adequate risk/benefit analysis. Furthermore, GSK failed to adequately warn doctors and the medical community of this dangerous risk using the other mediums at its disposal, including, but not limited to, medical journal articles, sales representatives, Dear Doctor letters, presentations, conferences, medical school information and all of its promotional material and activities.

55. GSK promoted and maintained Paxil on the market with the knowledge of Paxil's unreasonable risk to the public in general and specifically to Plaintiffs.

56. Paxil, as used by the Mother Plaintiffs during their pregnancy, was defective and unreasonably dangerous when sold by GSK, who is liable for the injuries arising from its manufacture and the Mother Plaintiffs' use.

57. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions, as well as past and future general and special damages, including future medical care and treatment, in a sum in excess of the jurisdictional minimum of this Court.

58. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

59. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial and other costs pertaining to their Decedent's death in an amount to be ascertained.

60. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

61. The forgoing actions of the Defendant were actions as described herein, were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

#### COUNTS V & VI

##### BREACH OF EXPRESS AND IMPLIED WARRANTY

62. Plaintiffs repeat and reiterate the allegations set forth above.

63. At all times hereinafter mentioned, upon information and belief, GSK, by directly and indirectly advertising, marketing and promoting Paxil for the treatment of women during pregnancy and by placing this drug in the stream of commerce knowing that Paxil would be prescribed to pregnant women in reliance upon the representations of GSK, expressly warranted to all foreseeable



users of the drug, including the Mother Plaintiffs, that Paxil was safe and effective for the treatment of women during pregnancy and without significant risk to the fetus.

64. GSK impliedly warranted in manufacturing, distributing, selling, advertising, marketing and promoting Paxil to all foreseeable users, including the Mother Plaintiffs, that Paxil was safe and effective for the purposes for which it had been placed in the stream of commerce by GSK, including for the treatment of pregnant women, and that Paxil was reasonably safe, proper, merchantable and fit for the intended purpose, including for the treatment of pregnant women and without significant risk to the fetus.

65. That at all time hereinafter mentioned, the Mother Plaintiffs relied upon the aforesaid express and implied warranties by GSK.

66. That at all times hereinafter mentioned, the Mother Plaintiffs' use of Paxil was consistent with the purposes for which GSK directly and indirectly advertised, marketed and promoted Paxil, and the Mother Plaintiffs' use of Paxil was reasonably contemplated, intended, and foreseen by GSK at the time of the distribution and sale of Paxil by GSK, and, therefore, the Mother Plaintiffs' use of Paxil was within the scope of the above-described express and implied warranties.

67. GSK breached the aforesaid express and implied warranties because Paxil was not safe and effective for the treatment of women during pregnancy because it exposed the developing fetus to a significant risk of serious injury, and because the Mother Plaintiffs' use of Paxil for treatment during her pregnancy caused their child's congenital birth defects, heart defects, PPHN and/or other related conditions.

68. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past, and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital



birth defects, heart defects, PPHN and/or other related conditions, as well as past and future general and special damages, including future medical care and treatment, in a sum in excess of the jurisdictional minimum of this Court.

69. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

70. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support, and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial and other costs pertaining to their Decedent's death in an amount to be ascertained.

71. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

72. The forgoing actions of GSK were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs and the public's safety and welfare.

WHEREFORE, for the above reasons, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

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COUNT VII

FRAUD

73. Plaintiffs repeat and reiterate the allegations set forth above.

74. GSK, having undertaken the manufacturing, marketing, dispensing, distribution and promotion of Paxil described herein, owed a duty to provide accurate and complete information regarding these products.

75. GSK's advertising program, by affirmative misrepresentations and omissions, falsely and deceptively sought to create the image and impression that the use of Paxil was safe for human use; had no, or no unacceptable side effects; had fewer side effects than other antidepressants; and would not interfere with daily life.

76. On information and belief, GSK purposefully concealed, failed to disclose, misstated, downplayed and understated the health hazards and risks associated with the use of Paxil. GSK through promotional literature, deceived potential users and prescribers of said drug by relying on only allegedly positive information, including testimonials from allegedly satisfied users, and manipulating statistics to suggest widespread acceptability, while concealing, misstating and downplaying the known adverse and serious health effects. GSK falsely and deceptively kept relevant information from potential Paxil users and minimized prescriber concerns regarding the safety and efficacy of Paxil.

77. In particular, in the materials disseminated by GSK, GSK falsely and deceptively misrepresented or omitted a number of material facts regarding the previously stated allegations including, but not limited to, the following:

- (a) The presence and adequacy of testing of Paxil, and
- (b) The severity and frequency of adverse congenital birth defects, heart defects, PPHN and/or other related conditions caused by a mother taking Paxil during pregnancy.

78. The aforementioned misrepresentations by GSK were reasonably relied upon by the Mother Plaintiffs and/or their prescribing physicians to their detriment.

79. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past, and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions, as well as past and future general and special damages, including future medical care and treatment, in a sum in excess of the jurisdictional minimum of this Court.

80. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

81. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial and other costs pertaining to their Decedent's death in an amount to be ascertained.

82. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

83. The forgoing actions of GSK were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs, and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

#### **COUNT VIII**

##### **LOSS OF CONSORTIUM AND LOSS OF INCOME**

84. Plaintiffs repeat and reiterate the allegations set forth above.

85. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

86. As a result of the wrongful conduct by GSK described herein, the Parent Plaintiffs of the Decedents suffered a loss of love, society, comfort, affection, companionship, services, and moral support in an amount to be determined at trial. Furthermore, as a result of the wrongful conduct by GSK described herein, the Parent Plaintiffs suffered a loss of income in an amount to be determined at trial.

#### **COUNT IX**

##### **CAUSE OF ACTION FOR SURVIVAL**

87. Plaintiffs repeat and reiterate the allegations set forth above.

88. As a direct and proximate result of the wrongful conduct of GSK as described herein, the Parent Plaintiffs' of the Decedents children suffered great pain and suffering and other personal injury and damaged before their death.

89. As a direct and proximate result of the conduct alleged herein, before their death, the Decedents sustained damages according to proof.

COUNT X

NEGLIGENT DESIGN

90. Plaintiffs repeat and reiterate the allegations set forth above.

91. GSK was the manufacturer, seller, distributor, marketer, and/or supplier of Paxil, which was negligently designed.

92. GSK was negligent in developing, designing, processing, manufacturing, inspecting, testing, packaging, selling, distributing, supplying, marketing and promoting Paxil which was defective and presented an unreasonable risk of harm to consumers. Paxil was negligently designed in ways which include, but are not limited to, one or more of the following:

- (a) When placed in the stream of commerce, Paxil contained unreasonably dangerous design defects and was not reasonably safe and fit for its intended or reasonably foreseeable purpose or as intended to be used, thereby subjecting users and/or consumers of the drug, including Plaintiffs, to risks which exceeded the benefits of the drug;
- (b) Paxil was insufficiently tested;
- (c) Paxil caused harmful side effects that outweighed any potential utility;
- (d) Paxil was not accompanied by adequate labeling, instructions for use and/or warnings to fully apprise the medical, pharmaceutical and/or scientific communities, and users and/or consumers of the drug, including Plaintiffs, of the potential risks and serious side effects associated with its use.
- (e) In light of the potential and actual risk of harm associated with Paxil's use, a reasonable person who had actual knowledge of this potential and actual risk of harm would have concluded that Paxil should not have been marketed in that condition.
- (f) GSK was under a duty to act for the protection of consumers, such as Plaintiffs. GSK owed a duty to consumers to exercise reasonable care in

developing, designing, processing, manufacturing, inspecting, testing, packaging, selling, distributing, supplying, marketing and promoting Paxil, and defendant breached that duty by the conduct as alleged herein.

- (g) GSK knew or should have known that use of Paxil as intended imposed unreasonable risks to the health of consumers and the unborn fetuses of pregnant consumers. GSK knew of the grave risks caused by their products from investigation and testing performed by themselves or others, or, to the extent they did not fully know of those risks, it was because they unreasonably failed to perform appropriate, adequate and proper investigations and tests that would have disclosed those risks.
- (h) GSK's conduct described above was grossly negligent in that their actions involved willful and reckless conduct and were carried out with disregard for the unreasonable risk of Paxil and its potential for harm to consumers and the fetuses of pregnant consumers.

93. The Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past, and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions, as well as past and future general and special damages, including future medical care and treatment, in a sum in excess of the jurisdictional minimum of this Court.

94. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs have incurred loss of consortium, general, special and medical damages and related expenses in an amount in excess of the jurisdictional minimum of this Court.

95. As a direct and proximate result of the aforesaid conduct of GSK, the Parent Plaintiffs of the Decedents have sustained pecuniary loss resulting from the loss of their child's society, companionship, comfort, attention, protection, care, love, affection, advice, services, moral support, economic support and general and special damages in a sum in excess of the jurisdictional minimum of this Court. As a further proximate result of GSK's conduct, the Parent Plaintiffs of the Decedents have incurred expenses for funeral, burial, and other costs pertaining to their Decedent's death in an amount to be ascertained.

96. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

97. The forgoing actions of GSK were actions as described herein, were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

#### COUNT XI

#### WRONGFUL DEATH

98. Plaintiffs repeat and reiterate the allegations set forth above.

99. As a direct and proximate result of the aforesaid, because of their mothers' ingestion of Paxil during their pregnancy, the Decedents developed congenital birth defects, heart defects, PPHN and/or other related conditions which caused extreme pain, suffering and mental anguish and ultimately caused their death.

100. As a direct and proximate result of the aforesaid conduct of GSK, the Decedents sustained pecuniary loss resulting from the pain and suffering from their congenital malformations and/or pulmonary conditions, by the surgeries and procedures they underwent between the time of their birth and their death and additional general and special damages in a sum in excess of the jurisdictional minimum of this Court.

101. The forgoing actions of GSK were actions as described herein, were intentional, malicious, wanton, willful or oppressive or were done with gross negligence and reckless indifference to the Plaintiffs, and the public's safety and welfare.

WHEREFORE, Plaintiffs demand judgment in their favor and against GSK for an amount in excess of \$50,000.00, compensatory and punitive damages and costs of suit in an amount to be determined upon the trial of this matter.

#### COUNT XII

#### DAMAGES

102. Plaintiffs repeat and reiterate the allegations set forth above.

103. As a direct and proximate result of the negligence, strict liability, failure to warn, implied warranty, breach of express and implied warranties, fraud, as described in Counts I-XI *supra*, the Infant Plaintiffs suffer from physical injuries, the full extent of which have not yet been determined, some or all of which are permanent and/or fatal, and the Infant Plaintiffs may suffer in the future from other diseases or conditions which have not yet been diagnosed. As a direct and proximate result of the aforesaid conduct of GSK, the Infant Plaintiffs have sustained in the past, and will sustain in the future, pain and suffering, mental anguish, embarrassment and humiliation, disfigurement and the loss of enjoyment of the pleasures of life without the presence of congenital birth defects, heart defects, PPHN and/or other related conditions, as set forth in each Plaintiff's "Short-Form" Complaint to be filed.

104. As a direct and proximate result of the aforesaid, Plaintiffs were obliged to spend various sums of money to treat their congenital birth defects, heart defects, PPHN and/or other



related conditions and Plaintiffs continue to be obliged for the expenses of same, as a direct and proximate result of the aforesaid, Plaintiffs have sustained a loss of earnings and earning capacity; and as a direct and proximate result of the aforesaid, the Infant Plaintiffs' enjoyment of life has been impaired and the Infant Plaintiffs' life expectancies shortened, all to Plaintiffs' great loss.

105. As a direct and proximate result of the aforesaid, the Infant Plaintiffs have undergone great physical pain and mental anguish.

106. As a direct and proximate result of the aforesaid, the Decedents sustained great physical pain and mental anguish as a result of their congenital birth defects, heart defects, PPHN and/or other related conditions and the surgeries and procedures they underwent between the time of their birth and their death in an attempt to treat those defects and/or conditions.

107. As a direct and proximate result of the aforesaid, and since the Plaintiffs first learned of the Infant Plaintiffs injuries, Plaintiffs have developed severe anxiety, hysteria or phobias, and or all of which have developed into a reasonable and traumatic fear of an increased risk of additional injury and or progression of the existing conditions(s).

108. As a direct and proximate result of the aforesaid, Plaintiffs have and will continue to suffer permanent and ongoing psychological damage which may require future psychological and or medical treatment.

109. As a direct and proximate result of the aforesaid, Plaintiffs have and will continue to suffer a disintegrations and deterioration of the family unit and the relationships existing therein, resulting in enhanced anguish, depression and other symptoms of psychological stress and disorder.

110. As a direct and proximate result of the aforesaid, the Decedents and the Injured Plaintiffs incurred and will continue to incur hospital, nursing and medical expenses. Decedents' beneficiaries have incurred hospital, medical and funeral expenses as a result of Decedents' deaths. The Plaintiff Parents of the Decedents' bring these claims as the Personal Representatives of the Estates of the Decedents on behalf of the Decedents' lawful beneficiaries for the damages and pecuniary losses sustained by said beneficiaries.

**COUNT XII**

**PUNITIVE DAMAGES**

111. Plaintiffs repeat and reiterate the allegations set forth above.

112. The Plaintiffs are entitled to punitive damages because GSK's failure to warn was reckless and without regard for the public's safety and welfare. GSK misled both the medical community and the public at large, including the Plaintiffs herein, by making false representations about the safety of Paxil. GSK downplayed, understated and/or disregarded its knowledge of the serious effects of taking Paxil during pregnancy despite available information demonstrating that Paxil was likely to cause serious and sometimes fatal congenital birth defects, heart defects, PPHN and/or other related conditions in unborn children when taken during pregnancy.

113. GSK was or should have been in the possession of evidence demonstrating that Paxil caused congenital birth defects, heart defects, PPHN and/or other related conditions in unborn children when taken during pregnancy. Nevertheless, it continued to market the products by providing false and misleading information with regard to safety and efficacy.

114. GSK's above described actions were performed willfully, intentionally and with reckless disregard for the rights of Plaintiffs and the public.

115. Accordingly, Plaintiffs seek and are entitled to punitive or exemplary damages in an amount to be determined at trial.

**PRAYER**

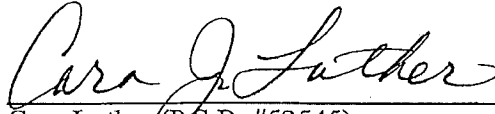
WHEREFORE, Plaintiffs pray for judgment against GSK as follows:

- A. For general damages in a sum exceeding this court's jurisdictional minimum;
- B. For damages for loss of consortium;
- C. For reasonable medical expenses according to proof;
- D. For all damages as allowed by law;
- E. For prejudgment interest and post-judgment interest as allowed by law;
- F. For delay damages pursuant to Pa. R.C.P. No. 238;

- G. For punitive and exemplary damages as allowed by law;
- H. For the costs of suit herein incurred; and
- I. For such other and further relief as this Court may deem just and proper.

Dated: March 5, 2007

Respectfully Submitted,



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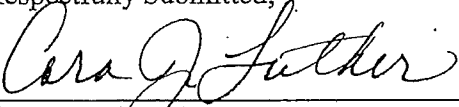
*Attorneys for Plaintiff*

**JURY TRIAL DEMAND**

Plaintiffs herein invoke their right to a trial by a jury of 12 persons.

Dated: March 5, 2007

Respectfully Submitted,

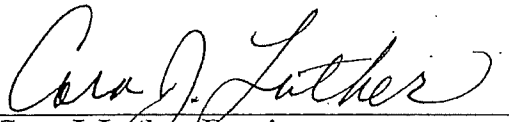
  
\_\_\_\_\_  
Cara J. Luther, Esq.

**ATTORNEY'S VERIFICATION**

I, Cara J. Luther, Esq., hereby state:

1. I am one of the Plaintiffs' attorneys in this action.
4. I verify that the statements made in the foregoing Master Long-Form Complaint are true and correct to the best of my knowledge, information and belief; and
5. I understand that the statements in said Complaint are subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: March 5, 2007



**Cara J. Luther, Esquire**

Attorney ID # 52545

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**Attorney for Plaintiffs**